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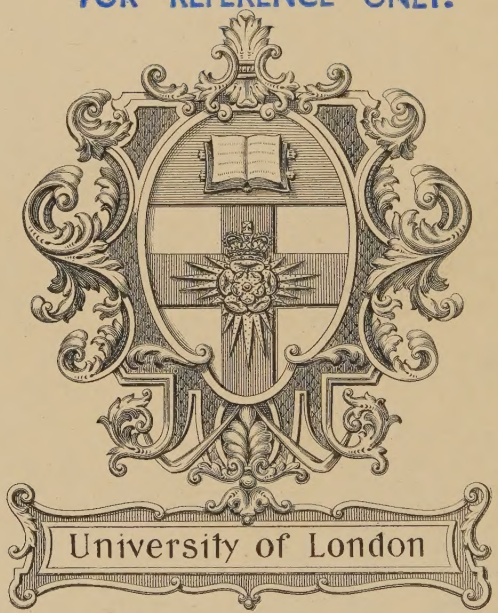

gesses of any Borough, or of the Corporation of any Burgh in which they are appointed, to be Surveyors of Buildings in such Borough, Town or Place, and to see that the several provisions of this Act are observed therein; and each of the said Surveyors shall have in his special charge such District of the Borough, Town or Place for which he is appointed as the Council or Justices or the Sheriff shall in that behalf appoint; and each of the said Surveyors shall hold his office during the pleasure of the Council or Justices or Sheriff by whom he is appointed, and may, if the Council or Justices or Sheriff shall so think fit, but not otherwise, have an Assistant or Assistants under him (such Assistants being in all cases appointed by and holding their situations during the pleasure of the Council or Justices or Sheriff); and the Council or Justices or Sheriff shall have authority to fix the Districts in which the said Surveyors are to act within the Borough, Town or Place, and to do all things relating in anywise to the appointment and direction of such Surveyors and Assistant Surveyors: Provided always, That if a Charter of Incorporation shall be granted to any Town or Place in which such Surveyors or Assistant Surveyors have been appointed, the future appointment of such Surveyors and Assistant-Surveyors shall be vested in the Council, as if such Town or Place were incorporated at the time of the passing of this Act.

2. Surveyors to make Declaration.

And be it Enacted, That every such Surveyor and Assistant Surveyor upon his appointment shall make and subscribe before the Mayor or Provost or Chief Magistrate of the said Borough, or before Two Justices of the Peace, or in Scotland before the Sheriff, a declaration to the effect following; (that is to say)

"I, A. B., the Surveyor [*or*, Assistant Surveyor, *or*, One of the Surveyors, *or*, One of the Assistant Surveyors] of Buildings in the Borough [*or*, Town] of appointed in pursuance of an Act of Parliament passed in the fifth year of the reign of Queen VICTORIA, intituled, [*here set forth the title of this Act*], do declare that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my skill and ability endeavour to cause the said Act for the Regulation of Buildings in the Borough [*or*, Town] of to be strictly observed, and that without fear, favour or malice towards any person whomsoever."

3. Surveyor's Office to be appointed.

And be it Enacted, That the Council or Justices or Sheriff shall provide an office or offices for the use of the said Surveyors in some convenient place or places within the Borough, Town or Place, and shall cause due notice thereof to be given in Two or more newspapers circulating within the Borough, Town or Place; and the cost of providing such office, and of giving notice thereof, and all other expenses arising

arising out of the exercise of the duties of such Surveyors not herein otherwise provided for, shall be defrayed by the Surveyors out of the fees to be taken by them as hereinafter provided.

4. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, for improving the City of Oxford.

Provided always, and be it Enacted, That in the city of Oxford the Surveyors of Buildings shall be appointed, and all other powers herein given to the Councils of Boroughs shall be exercised by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge, through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes and Places within the said University and City, and the Suburbs thereof, and the said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other purposes."

5. In Duddeston and Nechells powers of Act to be exercised by Commissioners of Lighting and Watching.

Provided also, and be it Enacted, That within the hamlets or liberties of Duddeston and Nechells, in the parish of Aston near Birmingham, in the county of Warwick, the Surveyors of Buildings shall be appointed, and all other powers herein given to the Councils of Boroughs shall be exercised by the Commissioners appointed under an Act passed in the tenth year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act for lighting, watching, cleansing and otherwise improving and regulating the Hamlets and Liberties of Duddeston and Nechells, in the Parish of Aston near Birmingham, in the County of Warwick."

6. Surveyors appointed under Local Building Acts to be Surveyors under this Act.

Provided always, and be it Enacted, That the Surveyors appointed under any of the Acts specified in the Schedule (B.) annexed to this Act shall be the Surveyors for enforcing so much of this Act as is to be enforced within the limits of the said several Acts, and shall be entitled to receive for their trouble herein such additional fees as shall be from time to time ordered and settled by the authority by which they are appointed.

7. Notice of building or altering Premises to be left at the Surveyor's Office.

And be it Enacted, That Three Days at least before any party or outside wall or chimney back of any building shall be begun to be built, pulled down, rebuilt or altered within the limits of this Act, notice thereof in writing shall be left at the office of the Surveyor of the district, signed by the master builder or workman or other person who shall be employed or be about to build, pull down, rebuild or alter

such outside or party wall or chimney back, or by the owner of the property or other person for whom or by whose order such works shall be ordered to be done, stating in general terms the nature of the intended work, and the place where the same is to be done or carried on, and the name and place of abode of the owner of the property or other person for whom or by whose order such work shall be ordered to be done, and the name and place of abode of the master builder or workman or other person who shall be employed or shall be intended to be employed therein; and the Surveyor within whose district the same shall be, shall inspect the said buildings and alterations from time to time, and shall cause all the rules of this Act relative to the proper construction of buildings to be well and truly observed.

8. Surveyors to act although notice has not been given.

And be it Enacted, That the Surveyor of the district wherein such building may be situated shall, immediately on the same becoming known to him, cause all the rules of this Act to be observed, whether or not any such notice shall have been given to him; and if such building, or any part thereof, is irregularly built, he shall give immediate information to some Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where the offence was committed, who shall cause the irregularities to be amended or the building demolished in the manner hereinafter directed.

9. In case the Surveyor of the district cannot attend, another Surveyor to do so.

And be it Enacted, That in case the Surveyor for the district within which any building is situated, which ought to be inspected under this Act, shall be prevented, by illness or other unavoidable hindrance, from inspecting the same, or in case such Surveyor shall be interested directly or indirectly therein, then such Surveyor shall cause notice thereof to be given to some other Surveyor appointed under this Act, or in case of the other Surveyor or Surveyors being prevented by the like hindrance, then to some Assistant Surveyor not subject to such objection; and such last-mentioned Surveyor or Assistant Surveyor, upon the receipt of such notice as aforesaid from the Surveyor of the district in which such building is situated, or from any person on his behalf, shall inspect the building in regard to which such notice shall have been given, and see that the regulations of this Act are well and truly observed.

10. Surveyor to give information of buildings or alterations made contrary to this Act.

And be it Enacted, That in case the several regulations in this Act contained shall not from time to time be well and truly observed in regard to any building, the Surveyor within whose district the same is situated, or the Surveyor or Assistant Surveyor who in his stead shall have inspected the same, shall, immediately on the discovery thereof, give notice in writing of such default to the owner or occupier thereof, or to the master builder, workman or other person employed in or about

about such building; and unless such parts of the said building as shall be contrary to the provisions of this Act shall, within Forty-eight Hours from the delivery of such notice, be altered or amended, then the said Surveyor shall give immediate information thereof to a Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where the offence was committed; and the said Justice or Sheriff shall inquire into the truth of such information, by examination of witnesses, or by such other means as he shall think fit, and if any breach of the regulations in this Act contained shall be found to have been committed, the said Justice or Sheriff shall cause such building to be taken down, or amended in manner hereinafter directed.

11. Buildings or alterations to be surveyed within One calendar Month after finished, and declaration made of conformity to this Act.

And be it Enacted, That every master builder, workman or other person by whom any building shall be built or altered, shall, within One calendar Month after such building shall have been covered in or such alteration completed, cause notice thereof in writing to be left at the Surveyor's office; and the Surveyor within whose district the same is situated shall forthwith proceed to survey such building, or in case he shall by illness or otherwise be prevented from surveying such building, or shall be interested therein as aforesaid, then the same shall be surveyed by any other Surveyor appointed under and by virtue of this Act, or by some Assistant Surveyor; and if upon such survey the said building shall be found to be built or altered agreeably to the regulations in this Act contained, then such Surveyor or Assistant Surveyor shall, on or before the First day of January, First day of April, First day of July, or First day of October, which shall first happen next after Fourteen Days from the time of surveying the same, make a declaration thereof in writing before the Mayor, Provost, or Chief Magistrate, or some Justice of the Peace, or in Scotland before the Sheriff, having jurisdiction where such building is situated; and the said declaration shall be entered in books to be provided for that purpose, and kept in the custody of the said Surveyors in their offices, which books shall be from time to time produced to the Mayor, Provost, or Chief Magistrate, or any Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where such building is situated, whenever required by any of them respectively: Provided always, That no such declaration shall be made until a certificate shall have been given, under the hand of the Surveyor, to the Commissioners of Sewers (if any such there be), or other person or persons acting in that capacity, that the building is upon the level and drained in the manner required by law.

12. Penalty on builder neglecting to give notice.

And be it Enacted, That every master builder, workman or other person by whom any building or alteration as aforesaid shall be erected or made within the limits of this Act, or by whom the same shall be completed, who shall neglect to give any notice required by this Act

respecting the same, shall for every such neglect forfeit and pay a sum not exceeding Five Pounds.

13. Penalty on workmen offending.

And be it Enacted, That every workman, labourer, servant or other person employed in any building, or in the alteration of any building, who shall wilfully, carelessly or negligently, and against the orders of any person causing such building to be erected or altered, or superintending the erecting or altering thereof, do anything in or about any building or alteration of any building contrary to the regulations of this Act, shall for every such offence forfeit and pay a sum not exceeding Fifty Shillings.

14. Penalty on persons refusing inspection.

And be it Enacted, That every owner or occupier of any building, and every other person interested therein, who shall begin to build or rebuild, or make any alteration in any building, and who shall refuse to any such Surveyor or Assistant Surveyor appointed under this Act admittance from time to time, at reasonable hours in the daytime, for the purpose of inspecting the said building or alteration, or who shall in anywise interrupt or hinder any such Surveyor or Assistant Surveyor from surveying the same, shall for every such offence forfeit and pay a sum not exceeding Ten Pounds; and every building built or begun to be built, or altered or begun to be altered as aforesaid, without such admittance as aforesaid being allowed, in case the same be not built or altered in every respect agreeably to the regulations of this Act, shall and may be taken down or amended by order of any Justice of the Peace, or in Scotland by order of the Sheriff, having jurisdiction within the said Borough or Town, in the manner hereinafter directed.

15. Houses not to be built below the level of the ground without areas.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any house in which the floor of any room or cellar to be used as a dwelling shall be below the surface or level of the ground in the immediate neighbourhood of such house, unless there shall be an open area not less than Three Feet wide from the floor of such room or cellar to the top of the area adjoining to the front or back of such room or cellar, and extending from one side or party wall to the other side or party wall; but this enactment shall not be taken to prevent any archway or covering which may be laid across such area for the purpose of approaching the doorway of the house.

16. Occupation of cellars in houses hereafter to be built.

And be it Enacted, That in any house to be built within the limits of this Act after the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, any underground cellar or room not having a window and fireplace, as well as such an open area adjoining thereunto as is hereinbefore specified.

And

17. Occupation of cellars in houses already built.

And be it Enacted, That in any house built within the limits of this Act before the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, after the First day of January in the year One thousand eight hundred and Forty-five, any underground cellar or room not having a window, or after the First day of January in the year One thousand eight hundred and Forty-eight, any underground cellar or room not having, in addition to such window, such an open area not less than Two Feet wide, as is hereinbefore described, or after the First day of January in the year One thousand eight hundred and Fifty-one, any underground cellar or room not having a fireplace in addition to such window and area.

18. Penalty.

And be it Enacted, That every person who shall wilfully let or suffer to be occupied any underground cellar or room contrary to the provisions of this Act shall forfeit and pay the sum of Twenty Shillings for every day that such cellar or room shall be so occupied, to be recovered by action of debt, either by the person occupying such cellar or room, or any other person who will sue for the same.

19. Houses not to be built back to back.

And be it Enacted, That on any new foundation within the limits of this Act, it shall not be lawful to build any house, except corner houses, and houses built in a street or thoroughfare which was begun or laid out before the passing of this Act, under the authority of any Act of Parliament, unless there shall be a clear space of at least Twenty Feet wide between the back wall of such house and the back wall of any opposite house: Provided always, That in estimating this distance, no account shall be taken of any back addition or outbuilding belonging to either of such houses not more than half the height of the back wall of the house above the level of the street, and which addition or outbuilding shall not extend along more than Two-thirds of the whole width of the house to which it belongs; but no such addition or outbuilding shall be nearer than Seven Feet to any other house, or to any addition or outbuilding to any other house, except privies, sheds or other buildings, not more than Eight Feet high above the level of the street which may adjoin the fence or fence wall on either side.

20. Regulating width of streets.

And be it Enacted, That it shall not be lawful to build any new street, alley or public passage within the limits of this Act, except such as were begun or laid out before the passing of this Act, under the authority of any Act of Parliament, unless the houses therein shall be separated by at least Thirty Feet where there is a carriageway between such houses, or at least Twenty Feet in the case of alleys and foot passages where there is no carriageway.

21. Houses not to be built in close alleys.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any new court or alley (except mews and stable-yards) narrower than Thirty Feet, through which there shall not be an open passage at each end thereof at least Twenty Feet wide, and entirely open from the ground upwards.

22. Level of the ground floors.

And be it Enacted, That the level of the ground floor of every house which shall be built within the limits of this Act shall be at least Six Inches above the level of the footway or road adjoining such house.

23. Regulating height of rooms in small houses.

And be it Enacted, That no room which shall be built within the limits of this Act to be used as a dwelling on the cellar or ground floor, or elsewhere than in the upper story of any third-rate house, or any house of a lower class or rate than the third, as defined by the said several Acts named in the Schedule (B.), within the limits of the said Acts respectively, and elsewhere as defined by this Act, shall be less than Eight Feet in height from the floor to the ceiling, and no room in the upper story of any such house shall be less than Seven Feet in height from the floor to the ceiling.

24. Only one story in the roof.

And be it Enacted, That there shall not be more than one story in any part of the roof of any house or other building which shall be built within the limits of this Act.

25. Yards and necessary houses to be provided for small houses.

And be it Enacted, That no third-rate or lower rate of house, defined as aforesaid, except houses in a street or thoroughfare which was begun or laid out, before the passing of this Act, under the authority of any Act of Parliament, shall be built within the limits of this Act without an inclosed yard, which, exclusive of any buildings therein, except the privy (if any), or any shed or other building not more than Eight Feet high, shall be of the extent of One-sixth part at least of the ground covered by the house; and no house shall be built within the limits of this Act without a privy, with proper doors and coverings to the same, either in the house or in the yard attached to the house, and sufficiently screened and fenced from public view, to the satisfaction of the Surveyor of the district.

26. All buildings erected contrary to this Act to be abated.

And be it Enacted, That if any person after the passing of this Act shall build or begin to build or alter any building contrary to the provisions thereof, and be thereof convicted on oath before any Two Justices of the Peace, or in Scotland before the Sheriff of the county, having jurisdiction where the offence is committed, then the owner of the said building so irregularly built or altered, or other person for whom or by whose order the said building shall be made, and the builder employed, or one of them, as the said Justices or Sheriff shall require,

require, shall enter into a recognizance, in such sum as the said Justices or Sheriff shall appoint, to take down the same within such convenient time as the said Justices or Sheriff shall appoint, or otherwise to amend the same according to the regulations in this Act contained, and also to pay the expenses of laying the information and obtaining the conviction; and in default of entering into such recognizance, it shall be lawful for the said Justices, by warrant under their hands and seals, or for the Sheriff in Scotland, by warrant under his hand, to order any such building to be taken down or altered, and to order the person by them authorized to take down the same to sell the materials thereof, and out of the monies arising from the sale thereof to pay himself, and all persons by him employed for the purposes aforesaid, the reasonable charges of taking down such building, and also the expenses of laying the information and obtaining a conviction, and to pay the surplus of such monies arising by such sale to the owner of such materials, or to such person as the said Justices or Sheriff shall order for such owner; and if the monies arising by such sale be not sufficient to defray such charges, the deficiency shall be levied upon and recovered from the owner or other person for whom or by whose order such building shall be made or altered, in like manner as penalties are by this Act directed to be levied and recovered; or, in case such Justices or Sheriff shall think it more expedient, the person so making default shall be committed to the common gaol, there to remain for such time as the said Justices or Sheriff shall determine, not more than Three calendar Months, such imprisonment to cease whenever the said building shall be abated, taken down, or otherwise amended according to the order of the said Justices or Sheriff and the provisions of this Act: Provided always, That no proceeding for any such conviction shall be had after the end of Three calendar Months after the building shall have been finished or the alterations completed.

27. For preventing neglect or evasion of this Act.

AND whereas it is expedient to make further provision for the detection of any neglect or the wilful evasion of the provisions in this Act; BE it Enacted, That it shall be lawful for any Surveyor appointed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or alteration of any building, against any owner, occupier, builder, workman or other person, for any default made in complying with the provisions of this Act, at any time within Three calendar Months after such default shall have been made; provided that the person intending to commence such proceedings, if not one of the said Surveyors, shall give notice of his intention at the office of the Surveyor of the district; and that in case any person having duly begun any building requiring compliance with the provisions of this Act shall suspend the progress and completion of such

building for any period exceeding Two calendar Months, and shall again go on with the same, or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall be given to the Surveyor of the district, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding Twenty Pounds, to be recovered as hereinafter mentioned.

28. Future buildings in towns not within Local Building Acts to be according to this Act.

AND whereas it is expedient that further provisions for security against fire should be made in such Boroughs and Towns as aforesaid which are not within the provisions of any of the Acts named in the said Schedule (B.); BE it Enacted, That all buildings begun to be built or rebuilt in any such Borough or Town not within the provisions of one of the said Acts shall, after the passing of this Act, be built and rebuilt according to the regulations hereinafter contained, and the outer walls, party walls, separate side or end walls, chimney backs, and chimney flues shall be built according to the Schedule (A.) annexed to this Act: Provided always, That where there is more than one story below the level of the street, the walls of the lowest story shall be Half a Brick or Four Inches and a Half thicker than is otherwise required.

29. Buildings to be distinguished as in the Schedule (A.)

And be it Enacted, That the word "building" throughout this Act shall be taken to comprise all buildings of whatever kind, not being buildings wholly under ground, or bridges, or walls to be used as fences only, within the limits of this Act, and every part of such buildings respectively; and that none of the regulations hereinafter contained shall apply to any buildings within the limits of any one of the Acts named in the said Schedule (B.), or elsewhere not within the limits of this Act; and that all buildings, whether upon old or new foundations, or on foundations partly new and partly old, within the limits of this Act, and not within the limits of the last-mentioned Act, shall be classed under the several rates of buildings described in the said Schedule (A.) annexed to this Act, and shall be built according to the rules therein contained concerning the same respectively.

30. Rules as to the rates of additions to any existing buildings.

AND in order to prevent any doubt as to the proper rate according to the said Schedule (A.) to which any building added to any building of the several rates contained in such Schedule belongs; BE it Enacted, That whenever there are distinct and complete outer walls to the original building to which the addition is to be made, the said additional building shall have such outer and other walls as are required by the said Schedule (A.), according to the rate to which such additional

additional building belongs; but if there shall be no distinct and complete outer walls to the original building, then such additional building shall have such outer and other walls as are required by the said Schedule (A.) for the rate of the original building, unless the additional building shall be larger or of a higher rate than the original building, when the additional building shall have such outer and other walls as are required by the said Schedule for the rate to which such additional building belongs.

31. Regulations as to rates of buildings, heights of walls, &c.

And be it Enacted, That in estimating the rate of any building according to the number of stories, no account shall be taken of any story in the roof, and the heights of all walls shall be estimated from the street level, unless where any building is more than Fifteen Feet from the street, in which case the height of front shall be measured from the level of the ground at the principal entrance, and the several squares of building, each of which shall be taken to contain One hundred superficial Feet, shall be taken on the level of the floor at the principal entrance to the dwelling-house, and shall include so much only of the party walls as belong to such house.

32. Regulations as to outer walls.

And be it Enacted, That every outer wall of every building shall be built of good, sound, well-burnt bricks, or good sound stone, properly bonded, and set in good mortar or cement (except only such wood-work as may be necessary for internal plates, girders, joist ends, partition heads, or for bond or chain timbers, or lintels, door or window frames), and except only such bressummers, and such story posts under such bressummers, as may be necessary in openings, and which shall be set up or fixed not higher than the level of the ceiling of the ground-floor of the building to which the same belong; and the mortar or cement shall be well compounded, in the proportion of One part of good fresh burnt lime or cement and Three parts of clean sharp sand; and all the internal plates, girders, joist ends, partition heads, bond or chain timbers, lintels, and door or window frames, shall be at the distance of at least Four Inches and a Half from the face of the wall; and all bressummers shall be of sufficient strength, and shall be of equal breadth with the wall which rests upon them.

33. Openings in outer walls of shops or warehouses to be supported according to directions of the Surveyor.

And be it Enacted, That in the case of doorways, windows or other openings in the outer walls of any building intended to be used as a shop or warehouse, and of any alterations in the same, the walls over such openings shall be supported with brick or stone arches, iron cradling, or wooden lintels or bressummers, of sufficient strength, to the satisfaction of the Surveyor who shall inspect the same, and where the doorways, windows or other openings shall exceed Ten Feet in width, with story posts, in such manner as shall be satisfactory to the

Surveyor who shall inspect the same; and in every case in which any such building shall not be so supported to the satisfaction of the said Surveyor, the same shall be considered as erected or altered (as the case may be) contrary to the regulations of this Act, and shall be taken down or amended, by order of any Justice of the Peace having jurisdiction within the said Borough or Town, in manner hereinafter authorized.

34. As to the mode of building party walls and separate side and end walls.

And be it Enacted, That every party wall and separate side or end wall shall be built of good, sound, well-burnt bricks, or good sound stone, properly bonded, and set in good mortar or cement, except such wood-work as may be necessary for the ends of girders, beams, trimming joists, or bressummers, but the ends of any girder, beam, trimming joist or other timber shall not be nearer than Nine Inches to the ends of any other such timber inserted on the other side of any such wall; and every party wall shall be of the thickness specified in the said Schedule (A.), according to the rate of the building to be erected on either side thereof, or the larger of them; but where, by want of agreement between the parties interested, or otherwise, a party wall cannot be the division wall between the side or end of any building and any other building, then each building to be erected shall have a separate side or end wall of the thickness in the said Schedule (A.) specified: Provided always, That after the building of any such separate side or end wall, the same shall in no case be taken as or made to form a part of any party wall upon the erection of any adjoining building at any time afterwards, unless the same shall be of sufficient thickness for such party wall, according to the provisions herein contained, and shall not have any timbers inserted in it other than are herein allowed to be inserted in party walls, and the party interested therein shall consent to the same being used as such party wall, but otherwise every such subsequent building shall have a separate side or end wall of the thickness required by this Act.

35. Party walls to be carried through and above the roof.

And be it Enacted, That all separate side or end walls next to any public way, and all party walls, shall be carried up above and through the roof, to form a parapet not less than Twelve Inches high, measured perpendicularly from the gutter, or at right angles with the slope of the roof, above the slates, tiles or other covering of the roof of the highest building to which they belong.

36. Thickness at the back of flues and chimney openings.

And be it Enacted, That no flue in any party wall shall be nearer than Nine Inches to the face of the party wall in the adjoining house, or nearer than Four Inches and a Half to any other flue or any chimney opening; and that the substance of brick or stone work at the back

back of any chimney opening shall not be less in thickness in the cellar story of any house or building than the length of One Brick and a Half, or Thirteen Inches, or elsewhere less than the length of One Brick, or Eight Inches and a Half.

37. Timber not to be near any chimney opening or flue.

And be it Enacted, That no girder, beam, trimmer, joist, bearer or other timber shall be laid in a wall nearer than Nine Inches to any chimney opening, back or flue, nor shall any timber be laid underneath the jambs or opening in any chimney breast to support the same, but the same shall be supported according to the directions of the Surveyor of the district, nor shall any timber be laid over any chimney opening.

38. Construction of chimney openings.

And be it Enacted, That an arch of brick or stone, or a bar of iron, shall be placed over every chimney opening, and every such chimney shall have a slab before the same of tile, stone, or other incombustible materials, which shall be at least Fifteen Inches broad, and One Foot longer than the chimney opening when finished, and shall be laid, where not upon the ground, on brick or stone trimmers, at least Fifteen Inches broad before the opening.

39. Ovens and furnaces to have protecting walls.

And be it Enacted, That every baker's oven, and every smith's and other tradesman or artificer's furnace whatsoever, hereafter to be built, shall have, as part of such oven or furnace, or otherwise, a protecting wall of not less than Nine Inches in thickness between the fire of the oven or furnace and the separate side or end wall, party wall, or outer wall of the building in which such oven or furnace shall be; and such protecting wall shall be so constructed, and be of such height, depth and breadth, above, below and beyond the oven or furnace, as shall be satisfactory to the Surveyor who shall inspect the same.

40. Heights of chimney shafts.

And be it Enacted, That no chimney shaft of any building hereafter to be built shall exceed the height of Six Feet above the outside of the roof of such building, measuring upwards from the centre of such chimney immediately above the roof, unless the same be secured by sufficient iron stays, of such strength and dimensions, and to be fixed in such manner as shall be approved of by the Surveyor who shall inspect the building, or unless the same be built with another chimney shaft, back to back, of such height and of such strength and dimensions as shall be approved by the said Surveyor, nor shall any such chimney shaft above such roof be of less dimensions than Twenty-two Inches in any one side thereof, unless built back to back with any shaft in manner aforesaid; provided that these provisions shall not extend to the chimney shaft of any chimney built for any detached building standing at a distance of not less than Eighteen Feet from

any public street or way, or for any steam-engine or manufactory the chimney shaft of which may be erected of such strength and dimensions and in such manner as shall be satisfactory to the said Surveyor.

41. Chimneys and flues to be pargetted.

And be it Enacted, That the inside of every chimney opening, and the inside and outside of every flue hereafter to be built, shall be rendered or pargetted throughout with mortar properly prepared for such purpose, except any outside thereof next to vacant ground, while such ground is vacant; and every person building any chimney or flue without causing the same to be so rendered or pargetted throughout shall for every such offence forfeit and pay a sum not exceeding Five Pounds.

42. Flues to be painted on buildings adjoining on vacant land.

And be it Enacted, That in all cases where party walls are built adjoining to vacant land with chimney openings and flues on the inner side thereof, the outside limits or courses and situations of all such chimney openings and flues shall be distinctly marked with paint on lines of not less than Three Inches wide upon the outer side of such party walls.

43. Of what materials houses shall be roofed.

And be it Enacted, That every flat, gutter and roof of every building, and also every turret, dormer and lantern light, or other similar building, which shall be placed in or on the flat or roof of any such building, and every outer part of every flat, gutter, roof, turret, dormer and lantern light, or other similar erection, in or on any building now built, which shall at any time after the time aforesaid be uncovered, shall be covered or renewed with some incombustible material, except such wood-work as may be necessary for the doors, door frames, windows and window frames of such dormers, turrets, lantern lights or other similar buildings.

44. Water not to be allowed to drip on streets.

And be it Enacted, That no water shall be suffered to drip upon any public street or way from the roof of any building of the first, second, third or fourth rate herein specified, except from the roofs of porticoes or other entrances, but all water from such roofs shall be conveyed by lead, copper, tin or iron gutters or pipes, or by brick or stone funnels to the drains or channel stones on or below the surface of the ground, or to some cistern or other reservoir made to receive the same, or to some front of such building not abutting upon any public street or way.

45. Projections.

And be it Enacted, That no projections shall be built with or added to any building of the first, second, third or fourth rate or class of building next to any public way, so as to extend beyond the general line of the fronts of the houses in such public way in which such projection is made, except such projections as are necessary for copings, cornices,

cornices, facias, door and window dressings, or for open porticoes, steps or iron palisades, and also except windows to any shop on the ground floor of any such building, the stall boards of which windows shall not project above Ten Inches in any public way Thirty Feet wide or more, nor above Five Inches in any public way less than Thirty Feet, measuring from the upright line of the building in such public way; and no cornice or covering thereof to any such shop window shall project more than Eighteen Inches in any public way Thirty Feet wide or more, nor more than Thirteen Inches in any public way less than Thirty Feet wide, measuring from the upright line of the building to which such shop window belongs: Provided always, That nothing in this Act shall be deemed to lessen or take away any restriction upon projections in any street or place already regulated by Act of Parliament.

46. Regulations as to raising buildings.

And be it Enacted, That buildings may be raised whenever the outer walls and the party walls or separate side or end walls thereof are of sufficient strength, and so far sound and in good repair as to be fit to bear additional walls thereon of the materials and thicknesses which are by this Act prescribed for outer walls and party walls respectively of the rate of building intended to be raised, and where the height of the said outer walls and party walls, and roof of the building, when raised, shall not exceed any of the heights by this Act directed for the rate of which the building will be when raised, and not otherwise.

47. Adjoining chimneys and flues to be raised.

And be it Enacted, That in case any building so raised shall be of a greater height than the adjoining building, and the flues or chimneys of such adjoining building over the party walls or separate side or end walls adjoining such building so raised, the party raising such building shall, at his own expense, build up such flues and chimneys belonging to the adjoining building, so that the top thereof may be carried up to the same height, as regards the building so raised, as before the same had been raised; but if the wall between the said building so raised and any adjoining building shall be a party wall common to both buildings, then, in the event of the occupier or owner of such adjoining building making use of any portion of such party wall as shall have been raised, the party raising such party wall shall be paid by and shall receive from the occupier or owner of such adjoining buildings a fair proportion of the expense of so much of the said party wall as shall be made use of at any time after the building thereof, but in no case shall any demand be made for raising such wall, or such chimneys or flues, if no other use is made of them than before the same were raised; which said proportion of the expense shall be paid within One calendar Month after demand thereof in writing delivered to such occupier or owner, or left for him at his usual or last known place of abode within

the United Kingdom of Great Britain and Ireland, and in default thereof may be recovered by action of debt or on the case, as herein provided in relation to the expenses of party walls.

48. Regulating mode of cutting into party walls.

And be it Enacted, That no person shall cut into any party wall now built or hereafter to be built within the limits of this Act, except as hereinafter specified; (that is to say) it shall be lawful to cut into such party wall not deeper than the centre thereof, for the purpose of inserting or tying in the front or back wall of any building newly erected or altered adjoining to such party wall, or not deeper than Two Inches and One-quarter, and not wider than Fourteen Inches, for any bressummer, beam end, or story post, or not deeper than Six Inches for the purpose of inserting or building in any stone or iron steps or landings, or for the purpose of inserting wood trimmers for each flight of wood stairs, or for the purpose of building in stone corbels for the support of any chimney required to be built against any such wall, or for the purpose of laying therein stone or brick or iron bearers to support the ends of any joist, beam, or trimming joist, the same being done to the satisfaction of the Surveyor who shall inspect the same; and every person who shall cut into any party wall for any of the purposes aforesaid shall immediately make good and repair the same to the satisfaction of the said Surveyor; but no party wall shall be cut for any of the aforesaid purposes if such cutting will endanger the said wall, or displace any of the timbers, chimneys or flues, or inside finishings of the adjoining building; and all the spaces on every side of any timber so inserted in any party wall shall be well filled up with good brick or stone and mortar or cement.

49. Openings through party walls, how to be made.

And be it Enacted, That no opening shall be made through any party wall for any purpose whatsoever other than for communication from one building to another, with the consent of all parties interested, and such opening shall be properly secured with iron doors and frames.

50. Notice of cutting into or through party walls.

And be it Enacted, That before beginning to cut into or through any party wall, Three clear Days' notice in writing shall be given to or left at the Surveyor's office, of the intended work, signed by the owner of the building or other person by whose direction the same is to be made, or by the builder or other person employed to make the same, stating in general terms the nature of the intended work, and the place at which the same is to be done, and the name and place of abode of the owner of the property or other person for whom or by whose direction such work is to be done, and the name of the master builder or workman or other person who shall be employed or be intended to be employed therein.

51. Penalty for improperly cutting into party wall.

And be it Enacted, That every person who shall cut into or maim any party wall, or cause the same to be so cut into or maimed, contrary to the provisions of this Act, shall for every such offence forfeit and pay a sum not exceeding Twenty Pounds, to be recovered and applied as any penalty is by this Act directed to be recovered and applied.

52. Penalty for fraud in erecting party wall.

And be it Enacted, That if between two dwelling-houses or other buildings two walls shall have been erected, which together are of the thickness or substance of the party wall required by this Act according to their rate, or be deemed by the Surveyor who shall inspect the same to be such party wall, and if the owner or occupier or any builder or other person shall, in the evasion of this Act, afterwards take down or cause to be taken down one of the said walls, or any part thereof, so that the division wall between the said houses or buildings shall not be conformable to the provisions of this Act, every person so offending shall for every such offence forfeit and pay a sum not exceeding One hundred Pounds, to be recovered and applied as any penalty by this Act is directed to be recovered and applied, and shall also rebuild such wall according to the provisions of this Act.

53. Notice to be given of intention to rebuild old party walls, arches and partitions.

AND whereas it is expedient that sufficient party walls, arches and partitions should exist, as well between buildings already built as between buildings hereafter to be built; BE it Enacted, That it shall be lawful for any person who shall think it necessary and intend to repair, pull down or rebuild any party wall, arch or partition, or any part thereof, to give Two calendar Months' notice in writing, addressed to the owner or occupier of such adjoining building or ground, of his intention to repair or pull down such party wall, arch or partition, or any part thereof, by delivering a copy of such notice to the occupier of such adjoining building or ground, if the same shall be occupied, either personally or by leaving the same for him at his last or usual place of abode, or, if such adjoining building or ground be unoccupied, by fixing a copy of such notice on the door of such last-mentioned building, or on a conspicuous part of the party wall, arch or partition where the same shall abut on any such ground.

54. Surveyors to be appointed to view party walls, arches and partitions.

And be it Enacted, That every such owner or occupier to or for whom such notice shall be so given or left as aforesaid, or in case of any such notice being so affixed as aforesaid, the owner or other person interested in such adjoining building or ground, shall appoint Two Surveyors or able workmen to meet at the time and the place in such notice mentioned, and they, together with the Two Surveyors or workmen named by the party giving such notice, whose names shall be expressed in such notice, shall view such party wall, arch or partition,

and they, or the greater number of them, shall certify, in writing under their hands, to the Surveyor of the district, the condition thereof, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt; and in case the owner or occupier of any adjoining building, or such other person as aforesaid, having notice as aforesaid, shall refuse or neglect to name Two such Surveyors or able workmen according to such notice, then the Two Surveyors and workmen named in such notice, together with Two other Surveyors or able workmen also to be named by the party giving such notice as aforesaid, shall, within Six Days after the time appointed in such notice, view the party wall, arch or partition required or intended to be repaired or pulled down, and they, or the greater number of them, shall certify, in writing under their hands, to the Surveyor of the district, the condition of such party wall, arch or partition, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt; and in case the greater number of the Surveyors or workmen appointed in manner aforesaid to view such party wall, arch or partition shall not, within the space of Three Weeks next after such appointment, sign such certificate in writing, then the Surveyor of the district, upon application to him for that purpose by the party giving such notice as aforesaid, shall appoint One or other able Surveyor or workman to be added to the Surveyors or workmen appointed as aforesaid; and all the said Surveyors or workmen so appointed, or the greater number of them, shall meet for that purpose (Six Days' notice having been given to or left at the dwelling-house of each of them of such intended meeting), and shall view the party wall, arch or partition so proposed to be repaired or pulled down.

55. Form of notice.

And be it Declared and Enacted, That such notice may be in the form or to the effect following (with such alterations therein as the circumstances of the case may require):

"TAKE notice, That the party wall [*or*, party arch, *or*, party partition, or some part thereof] between the building or ground situated at [*or*, inhabited or occupied by] and my house [*or*, building, *or* ground] adjoining thereto, is so far out of repair [*or*, insufficient] as to make it necessary to repair [*or*, pull down and rebuild] the same, or some part thereof, and that I intend to have the said party wall [*or*, party arch, *or*, party partition] surveyed, in pursuance of an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA, intituled, [*here set forth the title of this Act*], and that I have appointed of and of my Surveyors, to meet at in on my behalf, on the day and at of the clock in the noon of the same day; and I do

do hereby call upon you to appoint Two other Surveyors or other able workmen on your part, to meet them, at the time and place aforesaid, to view the said party wall [*or*, party arch, *or*, party partition], and to certify the condition thereof, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt. Dated this day of One thousand eight hundred

"To the owner and occupier of [*here describe shortly the adjoining building or ground*]."

56. If walls, &c. are certified by the Surveyor to be ruinous, a copy of the certificate to be delivered to the owners, &c. in Three Days.

And be it Enacted, That in case the greater number of such Surveyors or workmen, appointed in manner aforesaid, shall certify, in writing under their hands, to the Surveyor of the district, that the party wall, arch or partition described in such notice, or any part thereof, is decayed and ruinous, or is not sufficiently secure against fire, and that the same ought to be pulled down and rebuilt, then, within Three Days next after such certificate, a copy thereof shall be delivered to the owner or occupier of or left at such adjoining building, or, if the same be unoccupied, fixed on the door or other conspicuous part thereof; and such certificate shall be immediately filed at the office of the Town Clerk or of the Clerk of the Peace, or in Scotland of the Sheriff Clerk, of the County or other Jurisdiction, if the Town be not an incorporated Borough, paying such Clerk One Shilling for the filing thereof, and no more.

57. Owners or occupiers thinking themselves aggrieved may appeal to the General Quarter Sessions, whose determination shall be final.

And be it Enacted, That the owner or occupier of the adjoining building may (if he think fit) appeal from such certificate to the next General or Quarter Sessions of the Peace, or in Scotland to the Sheriff of the County, and the Court to which such appeal shall be made shall summon before the said Court One or more of such Surveyors or workmen, and such other persons as the Court shall think fit, and shall examine into the matter by the oaths of the witnesses, and upon such examination the Court shall make such order or orders in the premises as it in its discretion shall think to be just and reasonable, which order or orders shall be entered and filed of record by the Clerk of the Peace or Sheriff Clerk, for entering and filing whereof, and for any order of Court and copy thereof, the said Clerk shall be paid after the rate of One Shilling for every hundred words; and the determination of the said Court shall be final and conclusive against all parties.

58. Powers of parties intending to repair or rebuild, &c. in default of appeal.

And be it Enacted, That in default of appealing as aforesaid, or if upon any such appeal no order shall be made to the contrary, it shall be lawful for the party intending to repair or pull down and rebuild such party wall, arch or partition as aforesaid, after the expiration of Four Weeks after the delivery or leaving the copy of such certificate as aforesaid, to cause such party wall, arch or partition, or any parts thereof,

thereof, to be repaired or pulled down, and for that purpose, in the presence of a constable or other officer of the peace, to enter into and upon the adjoining building, at any time between the hours of Six in the morning and Seven in the afternoon (Sundays, Christmas-day, Good Friday, and any day of public fast or thanksgiving excepted), and if the outer door of such building be shut, and the person therein refuse to open the same, being thereunto required, or if the same be unoccupied, may break open such outer door, and may also remove to some other part of the premises, or, in case there be no room in the premises sufficient for that purpose, to any other place fit for the safe custody thereof, any wainscot, closets, presses, dressers, shelves, furniture, and other things hindering the building of such party wall, arch or partition, and shall shore up the said adjoining building, and may pull down any wall, arch, partition or other thing necessary to be pulled down or removed, and build a new party wall, arch or partition, or any part thereof, of such materials, and of such thickness and height, and in such manner, and subject to such regulations, as are by this Act prescribed: Provided always, That no party wall which is sound and in sufficient repair shall be liable to be condemned to be taken down, by any thing herein contained, for the purpose of building a party wall for a higher rate of building than that which is intended to be taken down.

59. Payment of Surveyors of party walls, if not condemned.

And be it Enacted, That if the Surveyors or workmen, or the greater number of them, shall not certify that the party wall surveyed by them, as required by such notice, is damaged or ruinous, or not sufficiently secure against fire, and that the same ought to be repaired or pulled down, then the person who has given the notice shall pay such reasonable expense of surveying the same as any Justice of the Peace having jurisdiction within the said Borough or Town, or in Scotland the Sheriff, shall appoint, the said expenses to be recovered in like manner as any penalties directed by this Act are to be recovered.

60. How owners are to be reimbursed part of their expense of building partitions or party walls.

And be it Enacted, That the person at whose expense any party wall, arch or partition shall be built, shall be reimbursed by the occupier or owner of the adjoining building or ground who shall at any time make use of such party wall, arch or partition, a part of the expense of building the same, and of all expenses connected therewith, in the proportion after mentioned; (that is to say) if the adjoining building be of the same or a higher rate or class of building than the building belonging to the person at whose expense the said party wall, arch or partition was built, then the owner or occupier of such adjoining building or ground shall pay One Moiety of the expense of building so much of the said party wall, arch or partition as such owner or occupier shall make use of; and if the adjoining building be of a lower rate or class of building, then the owner or occupier of such adjoining

adjoining building or ground shall pay a sum of money equal to One Moiety of the expense of building a party wall, arch or partition of the thickness by this Act required for the rate or class of building to which such adjoining building shall belong, and of the height and breadth of so much of the said party wall, arch or partition as such owner or occupier shall make use of; and in the meantime, and until such moiety or other proportional part of the expense of building such party wall, arch or partition be so paid, the sole property of the whole of such party wall, arch or partition, and of the whole ground whereon the same stands, shall be vested wholly in the person at whose expense the same was built; and in the case such proportional part of the expense be not paid within Twenty-one Days next after demand thereof, the same may be recovered, with full costs of suit, from such occupier or owner, by action of debt or on the case, in any of Her Majesty's Courts of Law.

61. How expenses of party walls shall be borne between landlord and tenant.

And be it Enacted, That in every case in which any party wall shall have been built or rebuilt under the provisions of this Act, and the tenant or occupier of any tenements adjoining to such party wall shall have paid any part of the expense of building or finishing the same, or any expense arising out of the building thereof, he shall be entitled to deduct from his rent such part of the amount so paid by him as is hereinafter specified; (that is to say) if at the time of such payment he is a tenant for an unexpired term of Fourteen Years, or any less term, he may deduct the whole amount paid by him; if for more than Fourteen Years, and not more than Twenty-one Years, he may deduct Four-fifths thereof; if for more than Twenty-one Years, and not more than Twenty-eight Years, he may deduct Three-fifths thereof; if for more than Twenty-eight Years, and not more than Thirty-five Years, he may deduct Two-fifths thereof; if for more than Thirty-five Years, and not more than Forty-two Years, he may deduct One-fifth thereof; but if for more than Forty-two Years, he shall not be entitled to deduct any part thereof: Provided always, That any tenant under a lease containing a covenant for renewal thereof shall be deemed a tenant for the full term to which his holding may be extended under such covenant; and that every tenant for a term depending upon a life or lives shall be deemed a tenant for such absolute term of years as shall be of the same value as such contingent term, according to the Government tables for the purchase of life annuities; and every lessor, being himself also a tenant or lessee of any lands or tenements from whose rent any part of the amount so paid on account of the expense of building or finishing any party wall shall have been deducted, shall be entitled in like manner to deduct from the rent payable by him to his lessor such part thereof as, according to the provisions hereinbefore contained, he would have been entitled to deduct from his rent had he

paid in the first instance the sum so deducted from the rent payable to him: Provided also, That nothing herein contained shall be taken to affect any special contract between any lessor and tenant or occupier of any lands or tenements whereby it is agreed that the tenant or occupier shall bear all the expenses of building and finishing party walls, or any part thereof.

62. Persons requiring a wall for a higher rate of building shall build a separate side or end wall.

And be it Enacted, That where any party wall shall be sound and conformable to this Act, every person requiring any party wall of a higher rate than the one existing shall, unless he can agree with the owner of the adjoining building to rebuild such party wall, build a separate side or end wall against the same, according to the rate of such building, as herein directed for separate side or end walls.

63. Regulations as to buildings over passages, &c.

AND whereas it frequently happens that many buildings are erected in some parts thereof over public or private ways, roads or passages, and the walls dividing separate properties, or separate buildings over such ways, roads or passages, with the chimney breasts or flues, are not arched under or supported by brick or stone, but rest upon wood; for remedy thereof, BE it Enacted, That when any such buildings erected in any part thereof over any such ways, roads or passages shall be taken down and rebuilt, the said dividing walls, and chimney breasts and flues (if any) in such dividing walls, shall be arched under with arches not less than the length of One Brick or Eight Inches and a Half in thickness, over such ways, roads or passages, with good sound brick or stone arches, or supported with stone or iron supports of sufficient strength, and according to the directions to be given from time to time by the Surveyor of the district who shall inspect the same; but in no case shall any such dividing walls, or chimney breasts and flues (if any) in such dividing walls, rest upon or be supported by timber; and all such brick or stone arches, or stone or iron supports shall be supported from the foundations by walls not of less thickness than required by the said Schedule (A.) for outer walls, according to the rate of building on either side of such public way, road or passage.

64. Such buildings as shall be presented as nuisances may be taken down.

And be it Enacted, That if any presentment shall be made by any inquest or grand jury at any Court of General or Quarter Sessions of the Peace having jurisdiction within any such Borough or Town, or if any Four or more Householders living near any building or wall, shall, by writing under their hands, present to the Council of the Borough, or to Two Justices of the Peace, or in Scotland to the Sheriff of the County, in the case of an unincorporated Town, that any building or wall in the said Borough or Town is in a ruinous or dangerous condition, the Council of the said Borough, or the said Justices, or Sheriff in the case of an unincorporated Town, on notice of any such presentment

presentment being given to them, and the same or a copy thereof being laid before them, shall cause a survey of the said building or wall to be made with all convenient speed by the Surveyor of the district; and if upon such survey it shall be certified to them that the said building or wall is dangerous or ruinous, the Council or Justices or Sheriff (as the case may be) shall immediately cause a proper hoard or fence to be put up, and shall cause notice in writing to be given to the owner or other person interested therein, if he can be found in the said Borough or Town, and if not, shall cause such notice to be put upon the door or other conspicuous part of the premises so presented to be ruinous or dangerous, or upon the said hoard or fence, requiring such owner or other person so interested to take down, secure or repair such building or wall, as the case shall require, within the space of Fourteen Days then next ensuing; and if such owner or other person so interested as aforesaid shall not begin to repair, take down or secure the building or wall so presented to be ruinous or dangerous within the space of Fourteen Days after any such notice shall be so given or put up as aforesaid, and complete such repairs or taking down as speedily as the nature of the case will admit, then the Council or Justices or Sheriff (as the case may be) shall with all convenient speed cause such building or wall, or so much thereof as shall be in such ruinous condition, or likely to be dangerous to passengers passing by the same, to be taken down and secured in such manner as shall from time to time be thought requisite, and shall sell such of the old materials as may be expedient, and out of the money arising therefrom shall reimburse themselves, and every person by them employed, all the charges of putting up any such hoard or fence, and of taking down or securing such building or wall, and of selling the materials, or so much thereof as the monies arising from any such sale will extend to pay, and shall account for and pay over the surplus to the owner or other person interested in such building or wall, upon demand thereof made, and if no demand be made within Six calendar Months, then such surplus shall go to the Borough Fund or common good of the said borough, or, in the case of an unincorporated Town, in aid of the poor-rate, or for the benefit of the poor of the parish, township or place where such ruinous or dangerous building or wall was situated.

65. Expense to be borne by owner.

And be it Enacted, That all the charges of putting up every such fence, and of taking down and securing all or so much of such ruinous or dangerous building or wall as shall be necessary to be taken down or made secure for the safety of passengers passing that way, shall from time to time be paid by the owner of such building or wall, if he can be found within the said Borough or Town; and if such owner shall, on demand thereof, neglect or refuse to pay the same, then such charges may, by warrant under the hand and seal of any Justice of the said Borough, be levied by distress and sale of the goods and chattels of such

such owner, if any such can be found, in the said Borough or Town; and if no such owner can be found in the said Borough or Town, or no sufficient distress of his goods and chattels can be made, then and in every such case the person who shall at any time thereafter occupy any such building or ground shall pay the same, and may deduct the amount so paid out of the rent thereof; provided that no occupier shall be liable to pay more than what he can lawfully deduct from such rent; and if he shall neglect or refuse to pay such charges, then the same shall, by warrant under the hand and seal of any Justice having jurisdiction within such Borough or Town, be levied by distress of the goods and chattels of any such occupier, in the same manner as penalties are by this Act directed to be levied, together with the costs of every such distress and sale; and the owner shall allow to every such occupier all such charges which he shall so pay, or which shall be levied by distress from him as aforesaid; and every occupier paying any charges shall be acquitted and discharged for so much money as he shall so pay, in the same manner as if the same had been actually paid to the person to whom his rent may be payable.

66. Persons taking down and repairing buildings to set up a sufficient fence, with platform for foot passengers, and a light during the night.

And be it Enacted, That every person who shall take down any building, or cause the same to be taken down, or who shall alter or repair the outward part of any building, or cause the same to be done, shall cause to be put up a proper and sufficient hoard or fence, in all cases in which the footway shall be thereby obstructed or rendered inconvenient, with a convenient platform and hand-rail, if there shall be room enough for the same to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence in such cases as aforesaid, with such platform and hand-rail as aforesaid, standing in good condition during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same shall be necessary to prevent accidents, cause the same to be well lighted during the night; and every such person who shall refuse or neglect to set up any such fence or hoard or platform, with such hand-rail as aforesaid, or to continue the same respectively standing and in good condition during the time aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted in the night, shall for every such offence forfeit a sum not exceeding Five Pounds.

Penalty for neglect.

67. If chimneys, &c., are ruinous, and occupier neglect to secure them after notice, summary proceedings may be had before a Justice.

And be it Enacted, That if the chimney or roof, or parapet or other wall, or any other part of any building, or any chimney-pot or other thing thereon, shall be deemed by any Surveyor acting under the authority of this Act to be in a ruinous or dangerous state, such Surveyor shall give notice thereof under his hand to the occupier of such building, either personally or by leaving the same at or affixed to some conspicuous part of the said building, requiring such occupier or other

other person interested therein forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or other person interested in such building shall not begin to take down, repair, rebuild or secure the same within the space of Two clear Days after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, it shall be lawful for the said Surveyor to give information thereof to any Justice of the Peace, or in Scotland the Sheriff, having jurisdiction within the Borough or Town, who shall proceed thereupon to hear the matter, and if any immediate danger is apprehended shall cause such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing thereon, as shall be considered to be in a dangerous state, to be forthwith taken down, shored up or otherwise secured, and in case no immediate danger is apprehended shall direct the occupier or other person interested in the said building, to take down, repair, rebuild or otherwise secure the same, to the satisfaction of such Surveyor, within a time to be fixed by such Justice or Sheriff; and in case the same shall not be taken down, repaired, rebuilt or otherwise secured, within the time to be limited as aforesaid, the occupier of such building shall forfeit and pay the sum of Five Pounds for every day during which the same shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier of such building shall, over and above the aforesaid penalty, pay all the costs, charges and expenses attendant upon the taking down, repairing, rebuilding or otherwise securing such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing; and such costs, charges and expenses may be recovered and levied in the same manner as such penalty.

68. Occupier may deduct the expenses from his rent, unless there be any agreement to the contrary.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney or roof, or parapet or other wall, or any part of any building, or any chimney-pot or other thing thereon, or upon whose goods and chattels such costs, charges or expenses may be levied in pursuance of this Act, may deduct the amount of such costs, charges and expenses, and the costs, charges and expenses of such distress and sale, out of the rent due to his landlord or lessor, unless there shall be some agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord

lord in part or full payment (as the case may be) of the rent due to him by such occupier as aforesaid, or otherwise the same shall be repaid to such occupier by such lessor or landlord, and in default thereof may be recovered by such occupier from such lessor or landlord by action or suit in any of Her Majesty's Courts of Law, unless in any such case there shall be an agreement between the parties, either express or implied, to the contrary.

69. Regulations respecting fire in sheds.

And be it Enacted, That every owner or occupier, or other person in the charge or management of any shed or other building not ceiled or plastered with incombustible material, who shall make or suffer any fire to burn in any such shed or building, shall forfeit and pay a sum not exceeding Ten Pounds for every such offence; provided that no such owner, occupier or other person shall be liable to the said penalty in any case in which the shed or other building shall be surrounded by substantial brick or stone walls, with the exception of necessary gates or doorways therein, such walls being of sufficient height, and the shed or other building being so placed within the same that any fire in such shed or other building would not endanger any other property; and no such owner, occupier or other person shall be liable to the said penalty in any case in which such shed or other building shall be distant from every building belonging to any other person Twenty Yards at the least, without computing in such distance any building besides such shed or other building belonging to the owner in the holding of the occupier, or under the charge or management of the person having the charge or management of such shed or other building as aforesaid.

70. Existing contracts not to be vitiated.

And be it therefore Enacted, That nothing herein contained shall extend to avoid any agreement in writing made before the passing of this Act, for erecting or altering any building, but that the same shall be performed with all the alterations of the buildings comprised therein which may be rendered necessary by this Act, and as if such alterations and variations had been stipulated for in such agreement: Provided always, That the difference between the costs and expenses of the work, when performed according to the provisions of this Act, shall be ascertained by the parties to the respective agreements, and paid for or deducted accordingly, if such difference shall amount to the sum of Twenty Pounds, but not otherwise; and if the said parties shall not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided upon by the Surveyor of the district for the time being, who shall adjudge the amount of such difference (not being less than Twenty Pounds) to the increase or diminution of the money to be paid under the respective agreements, and as part thereof, for which adjudication the party requiring the same shall pay to the said Surveyor so making

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the adjudication a fee not less than One Pound nor more than Five Pounds, according to the amount of the difference awarded and the trouble occasioned upon the award; the amount of such fee, in case of dispute, to be settled by the Council of the Borough, or by Two Justices of the Peace in the case of an unincorporated Town.

71. Respecting contracts for leases.

And be it Enacted, That nothing herein contained shall extend or be deemed to alter or affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground, but that the buildings agreed to be built by such lease or agreement shall be built according to the conditions which may be rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, and without the lessee or tenant being entitled to any compensation, either by payment of money, reduction of rent or otherwise.

72. Recovery of penalties.

And be it Enacted, That every offence which under the authority of this Act is punishable with any pecuniary penalty, fine or forfeiture, may in every case be heard and determined in a summary way by or before any Two Justices of the Peace, or in Scotland before the Sheriff, having jurisdiction where the offence was committed, or in the City of London and Liberties thereof by the Lord Mayor or any One Alderman of the said City, upon information given or exhibited within Three calendar Months next after the offence was committed; and upon every such information as aforesaid, the said Justices, Mayor or Alderman shall examine into the matter thereof; and if upon confession of the party accused, or on the oath of any One credible witness, the party accused shall be convicted of having committed such offence, then the penalty hereby made payable in respect of such offence, with the costs of conviction, to be ascertained by such Justices, Sheriff, Mayor or Alderman, shall be forthwith paid by the party convicted, and in case of non-payment thereof may be levied, as well as the costs of such proceeding, by distress and sale of the goods and chattels of the respective offenders or persons liable to pay the same, by warrant under the hands and seals of such Justices, Mayor or Alderman, or in Scotland under the hand of the Sheriff; and the overplus (if any) of the money so raised or recovered, after discharging such penalty or forfeiture, and the costs and expenses as aforesaid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained.

73. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That all persons in any Borough or Town who may think themselves aggrieved by any order of the Lord Mayor of the City of London, or of any Alderman, or Justice or Justices of the Peace, relating to anything in this Act contained, may appeal to the Court of General or Quarter Sessions having jurisdiction in such City, Borough or Town, or in Scotland to the Sheriff, the appellant first giving Ten

Days' notice in writing of such intention to appeal, and of the grounds and nature thereof, to the party against whom such appeal is intended to be made, or whose interest shall be affected thereby, and within Three Days after such notice entering into a recognizance or finding caution before some Justice of the Peace, or before the Sheriff, having jurisdiction in the said City, Borough or Town, conditioned to try such appeal, and abide the order and award of the said Court thereon, and to pay such costs as shall be awarded; and the said Court shall in a summary way either hear and determine the said complaint, or, if such Court shall think fit, may adjourn the hearing thereof; and the said Court may, if such Court see cause, mitigate any penalty or forfeiture, and may order any money to be returned which shall have been levied in pursuance of such order, and may also order such further satisfaction to be made to the party injured as the Court shall think reasonable, and may also order such costs to be paid to the party aggrieved by the party aggressing as the Court shall think reasonable.

74. Distress not unlawful for want of form.

And be it Enacted, That where any distress shall be made for any money to be levied by virtue of this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case.

75. Plaintiff not to recover after tender of amends.

And be it Enacted, That no plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, or in, under or by virtue of any power or authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think fit, whereupon such proceeding, order and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court.

76. Decision of Sheriff to be final.

And be it Enacted, That in Scotland the decision of the Sheriff, whether original or on appeal, shall in all cases be final and conclusive, and not subject to review by suspension, adjudication, or reduction, or otherwise.

And

77. Interpretation.

And be it Enacted, That in this Act any word denoting a male person shall be understood to mean a female as well as a male; and any word denoting One person or thing shall be understood to mean any number of persons or things, and also bodies corporate; and the word "Owner" shall be understood to include the party in possession or receipt of the rents or profits of any tenement; and that the word "House" shall be understood to mean dwelling-house; unless in any case another sense shall be shown by the context or by some positive enactment.

78. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULES to which the foregoing ACT refers.

SCHEDULE (A.)

Number of Class or Rate.	DESCRIPTION OF BUILDINGS.	THICKNESS OF OUTER WALLS.				THICKNESS OF PARTY WALLS. (For separate and Side or End Walls, see below.)				
		In Cellar Story to Under Side of Ground Story Floor.	In Ground Story to the Top of Joists in Floor above Ground Floor.	Above to the Top of the Wall, or, if a Parapet, to the Upper Side of the Ceiling of the Top Story.	Parapet.	In Cellar Story to Under Side of Ground Story Floor.	In Ground Story to the Top of Joists in Floor above Ground Story.	Above to the Top of Joists in Floor above First Story.	Above to Under Side of the Ceiling of the Top Story.	Above through the Roof to the Top.
1.	Every Church, Chapel and other place of Public Worship - - - - Every Brewery, Distillery and Manufactory - - - - - - Every Warehouse and other Building (not being a Dwelling-house or a Building in the Fifth or Sixth Class) which is higher than Thirty-one Feet - - Every Dwelling-house which is higher than Fifty Feet, or which contains more than Nine Squares of Building on the Ground Floor - - - Every Dwelling-house or other Building which has more than Three clear Stories above ground - - - -	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	2½ Bricks or 22½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.
2.	Every Warehouse or other Building (not being a Building in the First, Fifth or Sixth Class, or a Dwelling-house) which is higher than Twenty-two Feet, or which has Three clear Stories above ground - - - - - - - Every Dwelling-house (having Three clear Stories and no more above ground) which is higher than Forty Feet - Every Dwelling-house which contains more than Five and not more than Nine Squares of Building on the Ground Floor - - - - -	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	2½ Bricks or 22½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.

3.	Every Warehouse and other Building (not being a Dwelling-house or a Building in the First, Second, Fifth or Sixth Class) which is higher than Thirteen Feet, or which has Two clear Stories above ground - - - - - - Every Dwelling-house (having Three clear Stories and no more above ground) which is higher than Thirty-seven feet Every Dwelling-house which contains more than Three Squares and a Half and not more than Five Squares of Building on the Ground Floor - -	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.
4.	Every Warehouse and other Building (not being a Building in the First, Fifth or Sixth Class) which is not higher than Thirteen Feet - - - - - - Every Dwelling-house (having Two clear Stories and no more above ground) which is higher than Twenty-five Feet Every Dwelling-house which has not more than One clear Story above ground, or which does not contain Three Squares and a Half of Building on the Ground Floor - - - - - -	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.
5.	Every Building (not being a Building of the First Class or a Dwelling-house) which is at least Four Feet and not more than Ten Feet from any public street, road or way, and at least Sixteen Feet from any other Building not in the same possession, or connected with any such Building only by a Fence or Fence Wall - - - - - -	May be built of any Dimensions, but must be built either of Brick or Stone, or covered with incombustible Materials.								
6.	Every Building, not in the First Class, which is at least Ten Feet from any public street, road or way, and at least Thirty Feet from any other Building not in the same possession, or connected with any such Building only by a Fence or Fence Wall - - - -	May be built of any Dimensions and with any Materials.								

Separate Side or End Walls between Buildings shall not be less than the length of One Brick or Eight Inches and a Half thick, or, when the Wall is higher than Twenty-four Feet, less than the length of One Brick and One-half or Thirteen Inches thick.

Where any Building is not founded on Rock, every Outer or Party Wall shall have at least Four Footing Courses below the Level of the Cellar Floor, each Two Courses projecting Two Inches and a Quarter on each side of the Course or Wall immediately above them; and all Inner Walls shall have at least Two Footing Courses Four Inches and a Half wider than the Wall above them; and all such Footings shall commence upon a firm natural or artificial Foundation, to be approved by the Surveyor.

SCHEDULE (B.)

METROPOLIS.—An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectual preventing Mischiefs by Fire, within the Cities of London and Westminster and Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Marylebone, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex ; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law. - - - - [14 Geo. 3, c. 78.]

BRISTOL.—An Act for regulating the Buildings and Party Walls within the City and County of Bristol, and for widening and improving several Streets within the same. - - - - - - [3 & 4 Vict. c. lxxvii.]

LIVERPOOL.—An Act for altering, amending, consolidating and enlarging the Provisions of certain Acts relating to the Regulation of Buildings in the Borough of Liverpool. - - - - - [2 & 3 Vict. c. xcii.]

Buildings Regulation.

A

B I L L,

INTITULED,

AN ACT for regulating Buildings in large Towns.

(*Brought from the Lords, 15 February* 1842.)

Ordered, by The House of Commons, *to be Printed,* 18 *February* 1842.

33.

Under 8 *oz.*

(No. 2.)

25 *February* 1842.—5 VICT.

A

B I L L

For regulating Buildings in large Towns.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS Disease is engendered and aggravated by the crowded and unhealthy manner of building the Dwellings of the Working Classes in the large Towns and populous Places of this Realm, and it is expedient to make provision for improving such Dwellings; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Council of every Borough which is within the provisions of an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any Charter granted in pursuance of that or any subsequent Act, and of every Borough which is within the provisions of an Act passed in the fourth year of the reign of Her Majesty, intituled, "An Act for the Regulation of Municipal Corporations in Ireland," and the Magistrates and Councils of every Royal Burgh and Parliamentary Burgh in Scotland, and of every Burgh of Barony or of Regality in Scotland under the Government of Magistrates and Councils, and also in England and Ireland the Justices of the Peace in General or Quarter Sessions assembled, and in Scotland the Sheriff, having jurisdiction in any other Town or Place which Her Majesty, with the advice of Her Privy Council, shall order to be within the provisions of this Act, shall within *Six* calendar Months next after the passing of this Act, or next after such order, and from time to time as vacancies shall happen, appoint a fit person, or so many fit persons as the Council or Justices or Sheriff respectively shall think fit, not being Surveyors of the estates of the Mayor, Aldermen and Burgesses

1. Councils of Boroughs and Justices assembled in Sessions to appoint Surveyors of Buildings and Assistant Surveyors. 5 & 6 W. 4, c. 76. 3 & 4 Vict. c. 108.

gesses of any Borough, or of the Corporation of any Burgh in which they are appointed, to be Surveyors of Buildings in such Borough, Town or Place, and to see that the several provisions of this Act are observed therein; and each of the said Surveyors shall have in his special charge such District of the Borough, Town or Place for which he is appointed as the Council or Justices or the Sheriff shall in that behalf appoint; and each of the said Surveyors shall hold his office during the pleasure of the Council or Justices or Sheriff by whom he is appointed, and may, if the Council or Justices or Sheriff shall so think fit, but not otherwise, have an Assistant or Assistants under him (such Assistants being in all cases appointed by and holding their situations during the pleasure of the Council or Justices or Sheriff); and the Council or Justices or Sheriff shall have authority to fix the Districts in which the said Surveyors are to act within the Borough, Town or Place, and to do all things relating in anywise to the appointment and direction of such Surveyors and Assistant Surveyors: Provided always, That if a Charter of Incorporation shall be granted to any Town or Place in which such Surveyors or Assistant Surveyors have been appointed, the future appointment of such Surveyors and Assistant-Surveyors shall be vested in the Council, as if such Town or Place were incorporated at the time of the passing of this Act.

2. Surveyors to make Declaration.

And be it Enacted, That every such Surveyor and Assistant Surveyor upon his appointment shall make and subscribe before the Mayor or Provost or Chief Magistrate of the said Borough, or before *Two* Justices of the Peace, or in Scotland before the Sheriff, a declaration to the effect following; (that is to say)

"I, A. B., the Surveyor [or, Assistant Surveyor, or, One of the Surveyors, or, One of the Assistant Surveyors] of Buildings in the Borough [or, Town] of appointed in pursuance of an Act of Parliament passed in the fifth year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act], do declare that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my skill and ability endeavour to cause the said Act for the Regulation of Buildings in the Borough [or, Town] of to be strictly observed, and that without fear, favour or malice towards any person whomsoever."

3. Surveyor's Office to be appointed.

And be it Enacted, That the Council or Justices or Sheriff shall provide an office or offices for the use of the said Surveyors in some convenient place or places within the Borough, Town or Place, and shall cause due notice thereof to be given in Two or more newspapers circulating within the Borough, Town or Place; and the cost of providing such office, and of giving notice thereof, and all other expenses arising

arising out of the exercise of the duties of such Surveyors not herein otherwise provided for, shall be defrayed by the Surveyors out of the fees to be taken by them as hereinafter provided.

4. Surveyor to be paid by Fees.

And be it Enacted, That every Surveyor, Assistant Surveyor, or other person who shall inspect any such building, shall be entitled to have for his trouble therein such sum of money as shall appear to be due to him, according to a Table of Fees, to be settled from time to time by the same authority by which the Surveyor is appointed, not exceeding the scale of fees hereinafter mentioned; or it shall be lawful for the Council of any Borough to direct that the Surveyors and Assistant Surveyors in their Borough shall be paid by salary instead of fees, and in that case such salaries shall be paid out of the Borough fund; and the fees to be taken according to the scale of fees then in force, shall be accounted for by the several Surveyors and Assistant Surveyors to the Treasurer of the Borough, and shall be paid over to him from time to time, and form part of the Borough fund, and such fees shall not exceed the following scale; (that is to say)

For every first-rate building, as hereinafter defined, a sum not exceeding *Three Pounds Ten Shillings:*

For every second-rate building a sum not exceeding *Three Pounds:*

For every third-rate building a sum not exceeding *Two Pounds Ten Shillings:*

For every fourth-rate building, a sum not exceeding *Two Pounds:*

For every fifth-rate building a sum not exceeding *One Pound Ten Shillings:*

For every sixth-rate building, a sum not exceeding *One Pound:*

And for every alteration of, or addition to, any building, a sum not exceeding *half* the sum which may be allowed for a new building of the rate to which such alteration or addition is made:

5. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, for improving the City of Oxford.

Provided always, and be it Enacted, That in the city of Oxford the Surveyors of Buildings shall be appointed, and all other powers herein given to the Councils of Boroughs shall be exercised by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge, through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes and Places within the said University and City, and the Suburbs thereof, and the

said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other purposes."

6. Surveyors appointed under Local Building Acts to be Surveyors under this Act.

Provided always, and be it Enacted, That the Surveyors appointed under any of the Acts specified in the Schedule (B.) annexed to this Act shall be the Surveyors for enforcing so much of this Act as is to be enforced within the limits of the said several Acts, and shall be entitled to receive for their trouble herein such additional fees as shall be from time to time ordered and settled by the authority by which they are appointed.

7. Notice of building or altering Premises to be left at the Surveyor's Office.

And be it Enacted, That *Three* Days at least before any party or outside wall or chimney back of any building shall be begun to be built, pulled down, rebuilt or altered within the limits of this Act, notice thereof in writing shall be left at the office of the Surveyor of the district, signed by the master builder or workman or other person who shall be employed or be about to build, pull down, rebuild or alter such outside or party wall or chimney back, or by the owner of the property or other person for whom or by whose order such works shall be ordered to be done, stating in general terms the nature of the intended work, and the place where the same is to be done or carried on, and the name and place of abode of the owner of the property or other person for whom or by whose order such work shall be ordered to be done, and the name and place of abode of the master builder or workman or other person who shall be employed or shall be intended to be employed therein; and the Surveyor within whose district the same shall be, shall inspect the said buildings and alterations from time to time, and shall cause all the rules of this Act relative to the proper construction of buildings to be well and truly observed.

8. Who liable to pay the Fees.

And be it Enacted, That the party or owner hereinbefore directed to give such notice as aforesaid, shall be liable to pay to the Surveyor, Assistant Surveyor, or other person, such fee for his trouble therein as he shall be entitled to receive, as hereinbefore mentioned, and in default of payment of any such fee, the same shall be levied, by warrant of any Justice of the Peace having jurisdiction within the district, by distress and sale of the goods and chattels of such person or owner as aforesaid, together with the reasonable costs and charges of such distress and sale.

9. Surveyors to act, although notice has not been given.

And be it Enacted, That the Surveyor of the district wherein such building may be situated shall, immediately on the same becoming known to him, cause all the rules of this Act to be observed, whether

or

or not any such notice shall have been given to him; and if such building, or any part thereof, is irregularly built, he shall give immediate information to some Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where the offence was committed, who shall cause the irregularities to be amended or the building demolished in the manner hereinafter directed.

10. In case the Surveyor of the district cannot attend, another Surveyor to do so.

And be it Enacted, That in case the Surveyor for the district within which any building is situated, which ought to be inspected under this Act, shall be prevented, by illness or other unavoidable hindrance, from inspecting the same, or in case such Surveyor shall be interested directly or indirectly therein, then such Surveyor shall cause notice thereof to be given to some other Surveyor appointed under this Act, or in case of the other Surveyor or Surveyors being prevented by the like hindrance, then to some Assistant Surveyor not subject to such objection; and such last-mentioned Surveyor or Assistant Surveyor, upon the receipt of such notice as aforesaid from the Surveyor of the district in which such building is situated, or from any person on his behalf, shall inspect the building in regard to which such notice shall have been given, and see that the regulations of this Act are well and truly observed.

11. Surveyor to give information of buildings or alterations made contrary to this Act.

And be it Enacted, That in case the several regulations in this Act contained shall not from time to time be well and truly observed in regard to any building, the Surveyor within whose district the same is situated, or the Surveyor or Assistant Surveyor who in his stead shall have inspected the same, shall, immediately on the discovery thereof, give notice in writing of such default to the owner or occupier thereof, or to the master builder, workman or other person employed in or about such building; and unless such parts of the said building as shall be contrary to the provisions of this Act shall, within Forty-eight Hours from the delivery of such notice, be altered or amended, then the said Surveyor shall give immediate information thereof to a Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where the offence was committed; and the said Justice or Sheriff shall inquire into the truth of such information, by examination of witnesses, or by such other means as he shall think fit, and if any breach of the regulations in this Act contained shall be found to have been committed, the said Justice or Sheriff shall cause such building to be taken down, or amended in manner hereinafter directed.

12. Buildings or alterations to be surveyed within One calendar Month after finished, and declara-

And be it Enacted, That every master builder, workman or other person by whom any building shall be built or altered, shall, within *One calendar Month* after such building shall have been covered in or such alteration completed, cause notice thereof in writing to be left at the Surveyor's office; and the Surveyor within whose district the same

tion made of conformity to this Act.

is situated shall forthwith proceed to survey such building, or in case he shall by illness or otherwise be prevented from surveying such building, or shall be interested therein as aforesaid, then the same shall be surveyed by any other Surveyor appointed under and by virtue of this Act, or by some Assistant Surveyor; and if upon such survey the said building shall be found to be built or altered agreeably to the regulations in this Act contained, then such Surveyor or Assistant Surveyor shall, on or before the First day of January, First day of April, First day of July, or First day of October, which shall first happen next after *Fourteen* Days from the time of surveying the same, make a declaration thereof in writing before the Mayor, Provost, or Chief Magistrate, or some Justice of the Peace, or in Scotland before the Sheriff, having jurisdiction where such building is situated; and the said declaration shall be entered in books to be provided for that purpose, and kept in the custody of the said Surveyors in their offices, which books shall be from time to time produced to the Mayor, Provost, or Chief Magistrate, or any Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where such building is situated, whenever required by any of them respectively: Provided always, That no such declaration shall be made until a certificate shall have been given, under the hand of the Surveyor, to the Commissioners of Sewers (if any such there be), or other person or persons acting in that capacity, that the building is upon the level and drained in the manner required by law.

13. Penalty on builder neglecting to give notice.

And be it Enacted, That every master builder, workman or other person by whom any building or alteration as aforesaid shall be erected or made within the limits of this Act, or by whom the same shall be completed, who shall neglect to give any notice required by this Act respecting the same, shall for every such neglect forfeit and pay a sum not exceeding *Five Pounds*.

14. Penalty on workmen offending.

And be it Enacted, That every workman, labourer, servant or other person employed in any building, or in the alteration of any building, who shall wilfully, carelessly or negligently, and against the orders of any person causing such building to be erected or altered, or superintending the erecting or altering thereof, do anything in or about any building or alteration of any building contrary to the regulations of this Act, shall for every such offence forfeit and pay a sum not exceeding *Fifty Shillings*.

15. Penalty on persons refusing inspection.

And be it Enacted, That every owner or occupier of any building, and every other person interested therein, who shall begin to build or rebuild, or make any alteration in any building, and who shall refuse to any such Surveyor or Assistant Surveyor appointed under this Act admittance from time to time, at reasonable hours in the daytime, for the

the purpose of inspecting the said building or alteration, or who shall in anywise interrupt or hinder any such Surveyor or Assistant Surveyor from surveying the same, shall for every such offence forfeit and pay a sum not exceeding *Ten Pounds*; and every building built or begun to be built, or altered or begun to be altered as aforesaid, without such admittance as aforesaid being allowed, in case the same be not built or altered in every respect agreeably to the regulations of this Act, shall and may be taken down or amended by order of any Justice of the Peace, or in Scotland by order of the Sheriff, having jurisdiction within the said Borough or Town, in the manner hereinafter directed.

16. Houses not to be built below the level of the ground without areas.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any house in which the floor of any room or cellar to be used as a dwelling shall be below the surface or level of the ground in the immediate neighbourhood of such house, unless there shall be an open area not less than *Three* Feet wide from the floor of such room or cellar to the top of the area adjoining to the front or back of such room or cellar, and extending from one side or party wall to the other side or party wall; but this enactment shall not be taken to prevent any archway or covering which may be laid across such area for the purpose of approaching the doorway of the house.

17. Occupation of cellars in houses hereafter to be built.

And be it Enacted, That in any house to be built within the limits of this Act after the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, any underground cellar or room not having a window and fireplace, as well as such an open area adjoining thereunto as is hereinbefore specified.

18. Occupation of cellars in houses already built.

And be it Enacted, That in any house built within the limits of this Act before the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, after the *First day of January* in the year *One thousand eight hundred and Forty-five*, any underground cellar or room not having a window, or after the *First day of January* in the year *One thousand eight hundred and Forty-eight*, any underground cellar or room not having, in addition to such window, such an open area not less than *Two* Feet wide, as is hereinbefore described, or after the *First day of January* in the year *One thousand eight hundred and Fifty-one*, any underground cellar or room not having a fireplace in addition to such window and area.

19 Penalty.

And be it Enacted, That every person who shall wilfully let or suffer to be occupied any underground cellar or room contrary to the provisions of this Act shall forfeit and pay the sum of *Twenty Shillings* for every day that such cellar or room shall be so occupied, to be

recovered by action of debt, either by the person occupying such cellar or room, or any other person who will sue for the same.

20. Houses not to be built back to back.

And be it Enacted, That on any new foundation within the limits of this Act, it shall not be lawful to build any house, except corner houses, and houses built in a street or thoroughfare which was begun or laid out before the passing of this Act, under the authority of any Act of Parliament, unless there shall be a clear space of at least *Twenty* Feet wide between the back wall of such house and the back wall of any opposite house: Provided always, That in estimating this distance, no account shall be taken of any back addition or outbuilding belonging to either of such houses not more than *half* the height of the back wall of the house above the level of the street, and which addition or outbuilding shall not extend along more than *Two-thirds* of the whole width of the house to which it belongs; but no such addition or outbuilding shall be nearer than *Seven* Feet to any other house, or to any addition or outbuilding to any other house, except privies, sheds or other buildings, not more than *Eight* Feet high above the level of the street which may adjoin the fence or fence wall on either side.

21. Regulating width of streets.

And be it Enacted, That it shall not be lawful to build any new street, alley or public passage within the limits of this Act, except such as were begun or laid out before the passing of this Act, under the authority of any Act of Parliament, unless the houses therein shall be separated by at least *Thirty* Feet where there is a carriageway between such houses, or at least *Twenty* Feet in the case of alleys and foot passages where there is no carriageway.

22. Houses not to be built in close alleys.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any new court or alley (except mews and stable-yards) narrower than *Thirty* Feet, through which there shall not be an open passage at each end thereof at least *Twenty* Feet wide, and entirely open from the ground upwards.

23. Level of the ground floors.

And be it Enacted, That the level of the ground floor of every house which shall be built within the limits of this Act shall be at least *Six* Inches above the level of the footway or road adjoining such house.

24. Regulating height of rooms in small houses.

And be it Enacted, That no room which shall be built within the limits of this Act to be used as a dwelling on the cellar or ground floor, or elsewhere than in the upper story of any third-rate house, or any house of a lower class or rate than the third, as defined by the said several Acts named in the Schedule (B.), within the limits of the said Acts respectively, and elsewhere as defined by this Act, shall be less than *Eight* Feet in height from the floor to the ceiling, and no room

room in the upper story of any such house shall be less than *Seven* Feet in height from the floor to the ceiling.

25. Only one story in the roof.

And be it Enacted, That there shall not be more than one story in any part of the roof of any house or other building which shall be built within the limits of this Act.

26. Yards and necessary houses to be provided for small houses.

And be it Enacted, That no third-rate or lower rate of house, defined as aforesaid, except houses in a street or thoroughfare which was begun or laid out, before the passing of this Act, under the authority of any Act of Parliament, shall be built within the limits of this Act without an inclosed yard, which, exclusive of any buildings therein, except the privy (if any), or any shed or other building not more than *Eight* Feet high, shall be of the extent of *One-sixth* part at least of the ground covered by the house; and no house shall be built within the limits of this Act without a privy, with proper doors and coverings to the same, either in the house or in the yard attached to the house, and sufficiently screened and fenced from public view, to the satisfaction of the Surveyor of the district.

27. All buildings erected contrary to this Act to be abated.

And be it Enacted, That if any person after the passing of this Act shall build or begin to build or alter any building contrary to the provisions thereof, and be thereof convicted on oath before any Two Justices of the Peace, or in Scotland before the Sheriff of the county, having jurisdiction where the offence is committed, then the owner of the said building so irregularly built or altered, or other person for whom or by whose order the said building shall be made, and the builder employed, or one of them, as the said Justices or Sheriff shall require, shall enter into a recognizance, in such sum as the said Justices or Sheriff shall appoint, to take down the same within such convenient time as the said Justices or Sheriff shall appoint, or otherwise to amend the same according to the regulations in this Act contained, and also to pay the expenses of laying the information and obtaining the conviction; and in default of entering into such recognizance, it shall be lawful for the said Justices, by warrant under their hands and seals, or for the Sheriff in Scotland, by warrant under his hand, to order any such building to be taken down or altered, and to order the person by them authorized to take down the same to sell the materials thereof, and out of the monies arising from the sale thereof to pay himself, and all persons by him employed for the purposes aforesaid, the reasonable charges of taking down such building, and also the expenses of laying the information and obtaining a conviction, and to pay the surplus of such monies arising by such sale to the owner of such materials, or to such person as the said Justices or Sheriff shall order for such owner; and if the monies arising by such sale be not sufficient to defray such charges, the deficiency shall be

levied upon and recovered from the owner or other person for whom or by whose order such building shall be made or altered, in like manner as penalties are by this Act directed to be levied and recovered; or, in case such Justices or Sheriff shall think it more expedient, the person so making default shall be committed to the common gaol, there to remain for such time as the said Justices or Sheriff shall determine, not more than *Three* calendar Months, such imprisonment to cease whenever the said building shall be abated, taken down, or otherwise amended according to the order of the said Justices or Sheriff and the provisions of this Act: Provided always, That no proceeding for any such conviction shall be had after the end of *Three* calendar Months after the building shall have been finished or the alterations completed.

28. For preventing neglect or evasion of this Act.

AND whereas it is expedient to make further provision for the detection of any neglect or the wilful evasion of the provisions in this Act; BE it Enacted, That it shall be lawful for any Surveyor appointed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or alteration of any building, against any owner, occupier, builder, workman or other person, for any default made in complying with the provisions of this Act, at any time within *Three* calendar Months after such default shall have been made; provided that the person intending to commence such proceedings, if not one of the said Surveyors, shall give notice of his intention at the office of the Surveyor of the district; and in case any person having duly begun any building requiring compliance with the provisions of this Act shall suspend the progress and completion of such building for any period exceeding *Two* calendar Months, and shall again go on with the same, or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall be given to the Surveyor of the district, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding *Twenty Pounds*, to be recovered as hereinafter mentioned.

29. Future buildings in towns not within Local Building Acts to be according to this Act.

AND whereas it is expedient that further provisions for security against fire should be made in such Boroughs and Towns as aforesaid which are not within the provisions of any of the Acts named in the said Schedule (B.); BE it Enacted, That all buildings begun to be built or rebuilt in any such Borough or Town not within the provisions of one of the said Acts shall, after the passing of this Act, be built and rebuilt according to the regulations hereinafter contained, and the

outer

outer walls, party walls, separate side or end walls, chimney backs, and chimney flues shall be built according to the Schedule (A.) annexed to this Act: Provided always, That where there is more than one story below the level of the street, the walls of the lowest story shall be *Half a Brick, or Four Inches and a Half*, thicker than is otherwise required.

30. Buildings to be distinguished as in the Schedule (A.)

And be it Enacted, That the word "building" throughout this Act shall be taken to comprise all buildings of whatever kind, not being buildings wholly under ground, or bridges, or walls to be used as fences only, within the limits of this Act, and every part of such buildings respectively; and that none of the regulations hereinafter contained shall apply to any buildings within the limits of any one of the Acts named in the said Schedule (B.), or elsewhere not within the limits of this Act; and that all buildings, whether upon old or new foundations, or on foundations partly new and partly old, within the limits of this Act, and not within the limits of the last-mentioned Act, shall be classed under the several rates of buildings described in the said Schedule (A.) annexed to this Act, and shall be built according to the rules therein contained concerning the same respectively.

31. Rules as to the rates of additions to any existing buildings.

AND in order to prevent any doubt as to the proper rate according to the said Schedule (A.) to which any building added to any building of the several rates contained in such Schedule belongs; BE it Enacted, That whenever there are distinct and complete outer walls to the original building to which the addition is to be made, the said additional building shall have such outer and other walls as are required by the said Schedule (A.), according to the rate to which such additional building belongs; but if there shall be no distinct and complete outer walls to the original building, then such additional building shall have such outer and other walls as are required by the said Schedule (A.) for the rate of the original building, unless the additional building shall be larger or of a higher rate than the original building, when the additional building shall have such outer and other walls as are required by the said Schedule for the rate to which such additional building belongs.

32. Regulations as to rates of buildings, heights of walls, &c.

And be it Enacted, That in estimating the rate of any building according to the number of stories, no account shall be taken of any story in the roof, and the heights of all walls shall be estimated from the street level, unless where any building is more than *Fifteen* Feet from the street, in which case the height of front shall be measured from the level of the ground at the principal entrance, and the several squares of building, each of which shall be taken to contain *One hundred* superficial Feet, shall be taken on the level of the floor at the principal entrance to the dwelling-house, and shall include so much only of the party walls as belong to such house.

33. Regulations as to outer walls.

And be it Enacted, That every outer wall of every building shall be built of good, sound, well-burnt bricks, or good sound stone, properly bonded, and set in good mortar or cement (except only such wood-work as may be necessary for internal plates, girders, joist ends, partition heads, or for bond or chain timbers, or lintels, door or window frames), and except only such bressummers, and such story posts under such bressummers, as may be necessary in openings, and which shall be set up or fixed not higher than the level of the ceiling of the ground-floor of the building to which the same belong; and the mortar or cement shall be well compounded, in the proportion of *One* part of good fresh burnt lime or cement and *Three* parts of clean sharp sand; and all the internal plates, girders, joist ends, partition heads, bond or chain timbers, lintels, and door or window frames, shall be at the distance of at least *Four Inches and a Half* from the face of the wall; and all bressummers shall be of sufficient strength, and shall be of equal breadth with the wall which rests upon them.

34. Openings in outer walls of shops or warehouses to be supported according to directions of the Surveyor.

And be it Enacted, That in the case of doorways, windows or other openings in the outer walls of any building intended to be used as a shop or warehouse, and of any alterations in the same, the walls over such openings shall be supported with brick or stone arches, iron cradling, or wooden lintels or bressummers, of sufficient strength, to the satisfaction of the Surveyor who shall inspect the same, and where the doorways, windows or other openings shall exceed *Ten* Feet in width, with story posts, in such manner as shall be satisfactory to the Surveyor who shall inspect the same; and in every case in which any such building shall not be so supported to the satisfaction of the said Surveyor, the same shall be considered as erected or altered (as the case may be) contrary to the regulations of this Act, and shall be taken down or amended, by order of any Justice of the Peace having jurisdiction within the said Borough or Town, in manner hereinafter authorized.

35. As to the mode of building party walls and separate side and end walls.

And be it Enacted, That every party wall and separate side or end wall shall be built of good, sound, well-burnt bricks, or good sound stone, properly bonded, and set in good mortar or cement, except such wood-work as may be necessary for the ends of girders, beams, trimming joists, or bressummers, but the ends of any girder, beam, trimming joist or other timber shall not be nearer than *Nine* Inches to the ends of any other such timber inserted on the other side of any such wall; and every party wall shall be of the thickness specified in the said Schedule (A.), according to the rate of the building to be erected on either side thereof, or the larger of them; but where, by want of agreement between the parties interested, or otherwise, a party wall cannot be the division wall between the side or end of any building and any other building, then each building to be erected

erected shall have a separate side or end wall of the thickness in the said Schedule (A.) specified: Provided always, That after the building of any such separate side or end wall, the same shall in no case be taken as or made to form a part of any party wall upon the erection of any adjoining building at any time afterwards, unless the same shall be of sufficient thickness for such party wall, according to the provisions herein contained, and shall not have any timbers inserted in it other than are herein allowed to be inserted in party walls, and the party interested therein shall consent to the same being used as such party wall, but otherwise every such subsequent building shall have a separate side or end wall of the thickness required by this Act.

36. Party walls to be carried through and above the roof.

And be it Enacted, That all separate side or end walls next to any public way, and all party walls, shall be carried up above and through the roof, to form a parapet not less than *Twelve* Inches high, measured perpendicularly from the gutter, or at right angles with the slope of the roof, above the slates, tiles or other covering of the roof of the highest building to which they belong.

3. Thickness at the back of flues and chimney openings.

And be it Enacted, That no flue in any party wall shall be nearer than *Nine* Inches to the face of the party wall in the adjoining house, or nearer than *Four Inches and a Half* to any other flue or any chimney opening; and that the substance of brick or stone work at the back of any chimney opening shall not be less in thickness in the cellar story of any house or building than the length of *One Brick and a Half, or Thirteen Inches*, or elsewhere less than the length of *One Brick, or Eight Inches and a Half.*

38. Timber not to be near any chimney opening or flue.

And be it Enacted, That no girder, beam, trimmer, joist, bearer or other timber shall be laid in a wall nearer than *Nine* Inches to any chimney opening, back or flue, nor shall any timber be laid underneath the jambs or opening in any chimney breast to support the same, but the same shall be supported according to the directions of the Surveyor of the district, nor shall any timber be laid over any chimney opening.

39. Construction of chimney openings.

And be it Enacted, That an arch of brick or stone, or a bar of iron, shall be placed over every chimney opening, and every such chimney shall have a slab before the same of tile, stone, or other incombustible materials, which shall be at least *Fifteen* Inches broad, and *One Foot* longer than the chimney opening when finished, and shall be laid, where not upon the ground, on brick or stone trimmers, at least *Fifteen* Inches broad before the opening.

40. Ovens and furnaces to have protecting walls.

And be it Enacted, That every baker's oven, and every smith's and other tradesman or artificer's furnace whatsoever, hereafter to be built, shall

shall have, as part of such oven or furnace, or otherwise, a protecting wall of not less than *Nine* Inches in thickness between the fire of the oven or furnace and the separate side or end wall, party wall, or outer wall of the building in which such oven or furnace shall be; and such protecting wall shall be so constructed, and be of such height, depth and breadth, above, below and beyond the oven or furnace, as shall be satisfactory to the Surveyor who shall inspect the same.

41. Heights of chimney shafts.

And be it Enacted, That no chimney shaft of any building hereafter to be built shall exceed the height of *Six* Feet above the outside of the roof of such building, measuring upwards from the centre of such chimney immediately above the roof, unless the same be secured by sufficient iron stays, of such strength and dimensions, and to be fixed in such manner as shall be approved of by the Surveyor who shall inspect the building, or unless the same be built with another chimney shaft, back to back, of such height and of such strength and dimensions as shall be approved by the said Surveyor, nor shall any such chimney shaft above such roof be of less dimensions than *Twenty-two* Inches in any one side thereof, unless built back to back with any shaft in manner aforesaid; provided that these provisions shall not extend to the chimney shaft of any chimney built for any detached building standing at a distance of not less than *Eighteen* Feet from any public street or way, or for any steam-engine or manufactory the chimney shaft of which may be erected of such strength and dimensions and in such manner as shall be satisfactory to the said Surveyor.

42. Chimneys and flues to be pargetted.

And be it Enacted, That the inside of every chimney opening, and the inside and outside of every flue hereafter to be built, shall be rendered or pargetted throughout with mortar properly prepared for such purpose, except any outside thereof next to vacant ground, while such ground is vacant; and every person building any chimney or flue without causing the same to be so rendered or pargetted throughout shall for every such offence forfeit and pay a sum not exceeding *Five Pounds*.

43. Flues to be painted on buildings adjoining on vacant land.

And be it Enacted, That in all cases where party walls are built adjoining to vacant land with chimney openings and flues on the inner side thereof, the outside limits or courses and situations of all such chimney openings and flues shall be distinctly marked with paint on lines of not less than *Three* Inches wide upon the outer side of such party walls.

44. Of what materials houses shall be roofed.

And be it Enacted, That every flat, gutter and roof of every building, and also every turret, dormer and lantern light, or other similar building, which shall be placed in or on the flat or roof of any such building, and every outer part of every flat, gutter, roof, turret, dormer and lantern light, or other similar erection, in or on any building now built,

built, which shall at any time after the time aforesaid be uncovered, shall be covered or renewed with some incombustible material, except such wood-work as may be necessary for the doors, door frames, windows and window frames of such dormers, turrets, lantern lights or other similar buildings.

45. Water not to be allowed to drip on streets.

And be it Enacted, That no water shall be suffered to drip upon any public street or way from the roof of any building of the first, second, third or fourth rate herein specified, except from the roofs of porticoes or other entrances, but all water from such roofs shall be conveyed by lead, copper, tin or iron gutters or pipes, or by brick or stone funnels to the drains or channel stones on or below the surface of the ground, or to some cistern or other reservoir made to receive the same, or to some front of such building not abutting upon any public street or way.

46. Projections.

And be it Enacted, That no projections shall be built with or added to any building of the first, second, third or fourth rate or class of building next to any public way, so as to extend beyond the general line of the fronts of the houses in such public way in which such projection is made, except such projections as are necessary for copings, cornices, facias, door and window dressings, or for open porticoes, steps or iron palisades, and also except windows to any shop on the ground floor of any such building, the stall boards of which windows shall not project above *Ten* Inches in any public way *Thirty* Feet wide or more, nor above *Five* Inches in any public way less than *Thirty* Feet, measuring from the upright line of the building in such public way; and no cornice or covering thereof to any such shop window shall project more than *Eighteen* Inches in any public way *Thirty* Feet wide or more, nor more than *Thirteen* Inches in any public way less than *Thirty* Feet wide, measuring from the upright line of the building to which such shop window belongs: Provided always, That nothing in this Act shall be deemed to lessen or take away any restriction upon projections in any street or place already regulated by Act of Parliament.

47. Regulations as to raising buildings.

And be it Enacted, That buildings may be raised whenever the outer walls and the party walls or separate side or end walls thereof are of sufficient strength, and so far sound and in good repair as to be fit to bear additional walls thereon of the materials and thicknesses which are by this Act prescribed for outer walls and party walls respectively of the rate of building intended to be raised, and where the height of the said outer walls and party walls, and roof of the building, when raised, shall not exceed any of the heights by this Act directed for the rate of which the building will be when raised, and not otherwise.

48. Adjoining chimneys and flues to be raised.

And be it Enacted, That in case any building so raised shall be of a greater height than the adjoining building, and the flues or chimneys of such adjoining building over the party walls or separate side or end walls adjoining such building so raised, the party raising such building shall, at his own expense, build up such flues and chimneys belonging to the adjoining building, so that the top thereof may be carried up to the same height, as regards the building so raised, as before the same had been raised; but if the wall between the said building so raised and any adjoining building shall be a party wall common to both buildings, then, in the event of the occupier or owner of such adjoining building making use of any portion of such party wall as shall have been raised, the party raising such party wall shall be paid by and shall receive from the occupier or owner of such adjoining buildings a fair proportion of the expense of so much of the said party wall as shall be made use of at any time after the building thereof, but in no case shall any demand be made for raising such wall, or such chimneys or flues, if no other use is made of them than before the same were raised; which said proportion of the expense shall be paid within *One* calendar Month after demand thereof in writing delivered to such occupier or owner, or left for him at his usual or last known place of abode within the United Kingdom of Great Britain and Ireland, and in default thereof may be recovered by action of debt or on the case, as herein provided in relation to the expenses of party walls.

49. Regulating mode of cutting into party walls.

And be it Enacted, That no person shall cut into any party wall now built or hereafter to be built within the limits of this Act, except as hereinafter specified; (that is to say) it shall be lawful to cut into such party wall not deeper than the centre thereof, for the purpose of inserting or tying in the front or back wall of any building newly erected or altered adjoining to such party wall, or not deeper than *Two Inches and One-quarter*, and not wider than *Fourteen* Inches, for any bressummer, beam end, or story post, or not deeper than *Six* Inches for the purpose of inserting or building in any stone or iron steps or landings, orfor the purpose of inserting wood trimmers for each flight of wood stairs, or for the purpose of building in stone corbels for the support of any chimney required to be built against any such wall, or for the purpose of laying therein stone or brick or iron bearers to support the ends of any joist, beam, or trimming joist, the same being done to the satisfaction of the Surveyor who shall inspect the same; and every person who shall cut into any party wall for any of the purposes aforesaid shall immediately make good and repair the same to the satisfaction of the said Surveyor; but no party wall shall be cut for any of the aforesaid purposes if such cutting will endanger the said wall, or displace any of the timbers, chimneys or flues, or inside finishings of the adjoining building; and

all

all the spaces on every side of any timber so inserted in any party wall shall be well filled up with good brick or stone and mortar or cement.

50. Openings through party walls, how to be made.

And be it Enacted, That no opening shall be made through any party wall for any purpose whatsoever other than for communication from one building to another, with the consent of all parties interested, and such opening shall be properly secured with iron doors and frames.

51. Notice of cutting into or through party walls.

And be it Enacted, That before beginning to cut into or through any party wall, *Three* clear Days' notice in writing shall be given to or left at the Surveyor's office, of the intended work, signed by the owner of the building or other person by whose direction the same is to be made, or by the builder or other person employed to make the same, stating in general terms the nature of the intended work, and the place at which the same is to be done, and the name and place of abode of the owner of the property or other person for whom or by whose direction such work is to be done, and the name of the master builder or workman or other person who shall be employed or be intended to be employed therein.

52. Penalty for improperly cutting into party wall.

And be it Enacted, That every person who shall cut into or maim any party wall, or cause the same to be so cut into or maimed, contrary to the provisions of this Act, shall for every such offence forfeit and pay a sum not exceeding *Twenty* Pounds, to be recovered and applied as any penalty is by this Act directed to be recovered and applied.

53. Penalty for fraud in erecting party wall.

And be it Enacted, That if between two dwelling-houses or other buildings two walls shall have been erected, which together are of the thickness or substance of the party wall required by this Act according to their rate, or be deemed by the Surveyor who shall inspect the same to be such party wall, and if the owner or occupier or any builder or other person shall, in the evasion of this Act, afterwards take down or cause to be taken down one of the said walls, or any part thereof, so that the division wall between the said houses or buildings shall not be conformable to the provisions of this Act, every person so offending shall for every such offence forfeit and pay a sum not exceeding *One hundred* Pounds, to be recovered and applied as any penalty by this Act is directed to be recovered and applied, and shall also rebuild such wall according to the provisions of this Act.

54. Notice to be given of intention to rebuild old party walls, arches and partitions.

AND whereas it is expedient that sufficient party walls, arches and partitions should exist, as well between buildings already built as between buildings hereafter to be built; BE it Enacted, That it shall be lawful for any person who shall think it necessary and intend to repair,

pull down or rebuild any party wall, arch or partition, or any part thereof, to give *Two* calendar Months' notice in writing, addressed to the owner or occupier of such adjoining building or ground, of his intention to repair or pull down such party wall, arch or partition, or any part thereof, by delivering a copy of such notice to the occupier of such adjoining building or ground, if the same shall be occupied, either personally or by leaving the same for him at his last or usual place of abode, or, if such adjoining building or ground be unoccupied, by fixing a copy of such notice on the door of such last-mentioned building, or on a conspicuous part of the party wall, arch or partition where the same shall abut on any such ground.

55. Surveyors to be appointed to view party walls, arches and partitions.

And be it Enacted, That every such owner or occupier to or for whom such notice shall be so given or left as aforesaid, or in case of any such notice being so affixed as aforesaid, the owner or other person interested in such adjoining building or ground, shall appoint Two Surveyors or able workmen to meet at the time and the place in such notice mentioned, and they, together with the Two Surveyors or workmen named by the party giving such notice, whose names shall be expressed in such notice, shall view such party wall, arch or partition, and they, or the greater number of them, shall certify, in writing under their hands, to the Surveyor of the district, the condition thereof, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt; and in case the owner or occupier of any adjoining building, or such other person as aforesaid, having notice as aforesaid, shall refuse or neglect to name Two such Surveyors or able workmen according to such notice, then the Two Surveyors and workmen named in such notice, together with Two other Surveyors or able workmen also to be named by the party giving such notice as aforesaid, shall, within *Six* Days after the time appointed in such notice, view the party wall, arch or partition required or intended to be repaired or pulled down, and they, or the greater number of them, shall certify, in writing under their hands, to the Surveyor of the district, the condition of such party wall, arch or partition, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt; and in case the greater number of the Surveyors or workmen appointed in manner aforesaid to view such party wall, arch or partition shall not, within the space of *Three* Weeks next after such appointment, sign such certificate in writing, then the Surveyor of the district, upon application to him for that purpose by the party giving such notice as aforesaid, shall appoint One or other able Surveyor or workman to be added to the Surveyors or workmen appointed as aforesaid; and all the said Surveyors or workmen so appointed, or the greater number of them, shall meet for that purpose (*Six* Days' notice having been given to or left at the dwelling-house of each of them of such intended meeting), and shall view the party wall, arch or partition so proposed to be repaired or pulled down.

And

56. Form of notice.

And be it Declared and Enacted, That such notice may be in the form or to the effect following (with such alterations therein as the circumstances of the case may require):

"TAKE notice, That the party wall [or, party arch, or, party partition, or some part thereof] between the building or ground situated at [or, inhabited or occupied by] and my house [or, building, or ground] adjoining thereto, is so far out of repair [or, insufficient] as to make it necessary to repair [or, pull down and rebuild] the same, or some part thereof, and that I intend to have the said party wall [or, party arch, or, party partition] surveyed, in pursuance of an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA, intituled, [here set forth the title of this Act], and that I have appointed of and of my Surveyors, to meet at in on my behalf, on the day and at of the clock in the noon of the same day; and I do hereby call upon you to appoint Two other Surveyors or other able workmen on your part, to meet them, at the time and place aforesaid, to view the said party wall [*or*, party arch, *or*, party partition], and to certify the condition thereof, and whether the same, or any part thereof, ought to be repaired or pulled down and rebuilt. Dated this day of One thousand eight hundred

"To the owner and occupier of [here describe shortly the adjoining building or ground]."

57. If walls, &c. are certified by the Surveyor to be ruinous, a copy of the certificate to be delivered to the owners, &c. in Three Days.

And be it Enacted, That in case the greater number of such Surveyors or workmen, appointed in manner aforesaid, shall certify, in writing under their hands, to the Surveyor of the district, that the party wall, arch or partition described in such notice, or any part thereof, is decayed and ruinous, or is not sufficiently secure against fire, and that the same ought to be pulled down and rebuilt, then, within *Three* Days next after such certificate, a copy thereof shall be delivered to the owner or occupier of or left at such adjoining building, or, if the same be unoccupied, fixed on the door or other conspicuous part thereof; and such certificate shall be immediately filed at the office of the Town Clerk or of the Clerk of the Peace, or in Scotland of the Sheriff Clerk, of the County or other Jurisdiction, if the Town be not an incorporated Borough, paying such Clerk *One Shilling* for the filing thereof, and no more.

58. Owners or occupiers thinking themselves aggrieved may appeal

And be it Enacted, That the owner or occupier of the adjoining building may (if he think fit) appeal from such certificate to the next General or Quarter Sessions of the Peace, or in Scotland to the Sheriff

to the General Quarter Sessions, whose determination shall be final.

Sheriff of the County, and the Court to which such appeal shall be made shall summon before the said Court One or more of such Surveyors or workmen, and such other persons as the Court shall think fit, and shall examine into the matter by the oaths of the witnesses, and upon such examination the Court shall make such order or orders in the premises as it in its discretion shall think to be just and reasonable, which order or orders shall be entered and filed of record by the Clerk of the Peace or Sheriff Clerk, for entering and filing whereof, and for any order of Court and copy thereof, the said Clerk shall be paid after the rate of *One Shilling* for every hundred words ; and the determination of the said Court shall be final and conclusive against all parties.

59. Powers of parties intending to repair or rebuild, &c. in default of appeal.

And be it Enacted, That in default of appealing as aforesaid, or if upon any such appeal no order shall be made to the contrary, it shall be lawful for the party intending to repair or pull down and rebuild such party wall, arch or partition as aforesaid, after the expiration of *Four* Weeks after the delivery or leaving the copy of such certificate as aforesaid, to cause such party wall, arch or partition, or any parts thereof, to be repaired or pulled down, and for that purpose, in the presence of a constable or other officer of the peace, to enter into and upon the adjoining building, at any time between the hours of *Six* in the morning and *Seven* in the afternoon (Sundays, Christmas-day, Good Friday, and any day of public fast or thanksgiving excepted), and if the outer door of such building be shut, and the person therein refuse to open the same, being thereunto required, or if the same be unoccupied, may break open such outer door, and may also remove to some other part of the premises, or, in case there be no room in the premises sufficient for that purpose, to any other place fit for the safe custody thereof, any wainscot, closets, presses, dressers, shelves, furniture, and other things hindering the building of such party wall, arch or partition, and shall shore up the said adjoining building, and may pull down any wall, arch, partition or other thing necessary to be pulled down or removed, and build a new party wall, arch or partition, or any part thereof, of such materials, and of such thickness and height, and in such manner, and subject to such regulations, as are by this Act prescribed : Provided always, That no party wall which is sound and in sufficient repair shall be liable to be condemned to be taken down, by any thing herein contained, for the purpose of building a party wall for a higher rate of building than that which is intended to be taken down.

60 Payment of Surveyors of party walls, if not condemned.

And be it Enacted, That if the Surveyors or workmen, or the greater number of them, shall not certify that the party wall surveyed by them, as required by such notice, is damaged or ruinous, or not sufficiently secure against fire, and that the same ought to be repaired or pulled down, then the person who has given the notice shall pay such

such reasonable expense of surveying the same as any Justice of the Peace having jurisdiction within the said Borough or Town, or in Scotland the Sheriff, shall appoint, the said expenses to be recovered in like manner as any penalties directed by this Act are to be recovered.

61. How owners are to be reimbursed part of their expense of building partitions or party walls.

And be it Enacted, That the person at whose expense any party wall, arch or partition shall be built, shall be reimbursed by the occupier or owner of the adjoining building or ground who shall at any time make use of such party wall, arch or partition, a part of the expense of building the same, and of all expenses connected therewith, in the proportion after mentioned; (that is to say) if the adjoining building be of the same or a higher rate or class of building than the building belonging to the person at whose expense the said party wall, arch or partition was built, then the owner or occupier of such adjoining building or ground shall pay *One Moiety* of the expense of building so much of the said party wall, arch or partition as such owner or occupier shall make use of; and if the adjoining building be of a lower rate or class of building, then the owner or occupier of such adjoining building or ground shall pay a sum of money equal to *One Moiety* of the expense of building a party wall, arch or partition of the thickness by this Act required for the rate or class of building to which such adjoining building shall belong, and of the height and breadth of so much of the said party wall, arch or partition as such owner or occupier shall make use of; and in the meantime, and until such moiety or other proportional part of the expense of building such party wall, arch or partition be so paid, the sole property of the whole of such party wall, arch or partition, and of the whole ground whereon the same stands, shall be vested wholly in the person at whose expense the same was built; and in the case such proportional part of the expense be not paid within *Twenty-one* Days next after demand thereof, the same may be recovered, with full costs of suit, from such occupier or owner, by action of debt or on the case, in any of Her Majesty's Courts of Law.

62. How expenses of party walls shall be borne between landlord and tenant.

And be it Enacted, That in every case in which any party wall shall have been built or rebuilt under the provisions of this Act, and the tenant or occupier of any tenements adjoining to such party wall shall have paid any part of the expense of building or finishing the same, or any expense arising out of the building thereof, he shall be entitled to deduct from his rent such part of the amount so paid by him as is hereinafter specified; (that is to say) if at the time of such payment he is a tenant for an unexpired term of *Fourteen* Years, or any less term, he may deduct the whole amount paid by him; if for more than Fourteen Years, and not more than Twenty-one Years, he may deduct *Four-fifths* thereof; if for more than Twenty-one Years, and not more than Twenty-eight Years, he may deduct *Three-fifths* thereof;

thereof; if for more than Twenty-eight Years, and not more than Thirty-five Years, he may deduct *Two-fifths* thereof; if for more than Thirty-five Years, and not more than Forty-two Years, he may deduct *One-fifth* thereof; but if for more than Forty-two Years, he shall not be entitled to deduct any part thereof: Provided always, That any tenant under a lease containing a covenant for renewal thereof shall be deemed a tenant for the full term to which his holding may be extended under such covenant; and that every tenant for a term depending upon a life or lives shall be deemed a tenant for such absolute term of years as shall be of the same value as such contingent term, according to the Government tables for the purchase of life annuities; and every lessor, being himself also a tenant or lessee of any lands or tenements from whose rent any part of the amount so paid on account of the expense of building or finishing any party wall shall have been deducted, shall be entitled in like manner to deduct from the rent payable by him to his lessor such part thereof as, according to the provisions hereinbefore contained, he would have been entitled to deduct from his rent had he paid in the first instance the sum so deducted from the rent payable to him: Provided also, That nothing herein contained shall be taken to affect any special contract between any lessor and tenant or occupier of any lands or tenements whereby it is agreed that the tenant or occupier shall bear all the expenses of building and finishing party walls, or any part thereof.

63. Persons requiring a wall for a higher rate of building shall build a separate side or end wall.

And be it Enacted, That where any party wall shall be sound and conformable to this Act, every person requiring any party wall of a higher rate than the one existing shall, unless he can agree with the owner of the adjoining building to rebuild such party wall, build a separate side or end wall against the same, according to the rate of such building, as herein directed for separate side or end walls.

64. Regulations as to buildings over passages, &c.

AND whereas it frequently happens that many buildings are erected in some parts thereof over public or private ways, roads or passages, and the walls dividing separate properties, or separate buildings over such ways, roads or passages, with the chimney breasts or flues, are not arched under or supported by brick or stone, but rest upon wood; for remedy thereof, BE it Enacted, That when any such buildings erected in any part thereof over any such ways, roads or passages shall be taken down and rebuilt, the said dividing walls, and chimney breasts and flues (if any) in such dividing walls, shall be arched under with arches not less than the length of *One Brick or Eight Inches and a Half* in thickness, over such ways, roads or passages, with good sound brick or stone arches, or supported with stone or iron supports of sufficient strength, and according to the directions to be given from time to time by the Surveyor of the district who shall inspect the same; but in no case shall any such dividing walls, or chimney breasts and flues

flues (if any) in such dividing walls, rest upon or be supported by timber; and all such brick or stone arches, or stone or iron supports shall be supported from the foundations by walls not of less thickness than required by the said Schedule (A.) for outer walls, according to the rate of building on either side of such public way, road or passage.

65. Such buildings as shall be presented as nuisances may be taken down.

And be it Enacted, That if any presentment shall be made by any inquest or grand jury at any Court of General or Quarter Sessions of the Peace having jurisdiction within any such Borough or Town, or if any *Four* or more Householders living near any building or wall, shall, by writing under their hands, present to the Council of the Borough, or to Two Justices of the Peace, or in Scotland to the Sheriff of the County, in the case of an unincorporated Town, that any building or wall in the said Borough or Town is in a ruinous or dangerous condition, the Council of the said Borough, or the said Justices, or Sheriff in the case of an unincorporated Town, on notice of any such presentment being given to them, and the same or a copy thereof being laid before them, shall cause a survey of the said building or wall to be made with all convenient speed by the Surveyor of the district; and if upon such survey it shall be certified to them that the said building or wall is dangerous or ruinous, the Council or Justices or Sheriff (as the case may be) shall immediately cause a proper hoard or fence to be put up, and shall cause notice in writing to be given to the owner or other person interested therein, if he can be found in the said Borough or Town, and if not, shall cause such notice to be put upon the door or other conspicuous part of the premises so presented to be ruinous or dangerous, or upon the said hoard or fence, requiring such owner or other person so interested to take down, secure or repair such building or wall, as the case shall require, within the space of *Fourteen* Days then next ensuing; and if such owner or other person so interested as aforesaid shall not begin to repair, take down or secure the building or wall so presented to be ruinous or dangerous within the space of *Fourteen* Days after any such notice shall be so given or put up as aforesaid, and complete such repairs or taking down as speedily as the nature of the case will admit, then the Council or Justices or Sheriff (as the case may be) shall with all convenient speed cause such building or wall, or so much thereof as shall be in such ruinous condition, or likely to be dangerous to passengers passing by the same, to be taken down and secured in such manner as shall from time to time be thought requisite, and shall sell such of the old materials as may be expedient, and out of the money arising therefrom shall reimburse themselves, and every person by them employed, all the charges of putting up any such hoard or fence, and of taking down or securing such building or wall, and of selling the materials, or so much thereof as the monies arising from

any such sale will extend to pay, and shall account for and pay over the surplus to the owner or other person interested in such building or wall, upon demand thereof made, and if no demand be made within *Six* calendar Months, then such surplus shall go to the Borough Fund or common good of the said borough, or, in the case of an unincorporated Town, in aid of the poor-rate, or for the benefit of the poor of the parish, township or place where such ruinous or dangerous building or wall was situated.

66. Expense to be borne by owner.

And be it Enacted, That all the charges of putting up every such fence, and of taking down and securing all or so much of such ruinous or dangerous building or wall as shall be necessary to be taken down or made secure for the safety of passengers passing that way, shall from time to time be paid by the owner of such building or wall, if he can be found within the said Borough or Town; and if such owner shall, on demand thereof, neglect or refuse to pay the same, then such charges may, by warrant under the hand and seal of any Justice of the said Borough, be levied by distress and sale of the goods and chattels of such owner, if any such can be found, in the said Borough or Town; and if no such owner can be found in the said Borough or Town, or no sufficient distress of his goods and chattels can be made, then and in every such case the person who shall at any time thereafter occupy any such building or ground shall pay the same, and may deduct the amount so paid out of the rent thereof; provided that no occupier shall be liable to pay more than what he can lawfully deduct from such rent; and if he shall neglect or refuse to pay such charges, then the same shall, by warrant under the hand and seal of any Justice having jurisdiction within such Borough or Town, be levied by distress of the goods and chattels of any such occupier, in the same manner as penalties are by this Act directed to be levied, together with the costs of every such distress and sale; and the owner shall allow to every such occupier all such charges which he shall so pay, or which shall be levied by distress from him as aforesaid; and every occupier paying any charges shall be acquitted and discharged for so much money as he shall so pay, in the same manner as if the same had been actually paid to the person to whom his rent may be payable.

67. Persons taking down and repairing buildings to set up a sufficient fence, with platform for foot passengers, and a light during the night.

And be it Enacted, That every person who shall take down any building, or cause the same to be taken down, or who shall alter or repair the outward part of any building, or cause the same to be done, shall cause to be put up a proper and sufficient hoard or fence, in all cases in which the footway shall be thereby obstructed or rendered inconvenient, with a convenient platform and hand-rail, if there shall be room enough for the same to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence in such

cases

cases as aforesaid, with such platform and hand-rail as aforesaid, standing in good condition during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same shall be necessary to prevent accidents, cause the same to be well lighted during the night; and every such person who shall refuse or neglect to set up any such fence or hoard or platform, with such hand-rail as aforesaid, or to continue the same respectively standing and in good condition during the time aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted in the night, shall for every such offence forfeit a sum not exceeding *Five Pounds*.

Penalty for neglect.

68. And be it Enacted, That if the chimney or roof, or parapet or other wall, or any other part of any building, or any chimney-pot or other thing thereon, shall be deemed by any Surveyor acting under the authority of this Act to be in a ruinous or dangerous state, such Surveyor shall give notice thereof under his hand to the occupier of such building, either personally or by leaving the same at or affixed to some conspicuous part of the said building, requiring such occupier or other person interested therein forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or other person interested in such building shall not begin to take down, repair, rebuild or secure the same within the space of *Two* clear Days after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, it shall be lawful for the said Surveyor to give information thereof to any Justice of the Peace, or in Scotland the Sheriff, having jurisdiction within the Borough or Town, who shall proceed thereupon to hear the matter, and if any immediate danger is apprehended shall cause such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing thereon, as shall be considered to be in a dangerous state, to be forthwith taken down, shored up or otherwise secured, and in case no immediate danger is apprehended shall direct the occupier or other person interested in the said building, to take down, repair, rebuild or otherwise secure the same, to the satisfaction of such Surveyor, within a time to be fixed by such Justice or Sheriff; and in case the same shall not be taken down, repaired, rebuilt or otherwise secured, within the time to be limited as aforesaid, the occupier of such building shall forfeit and pay the sum of *Five Pounds* for every day during which the same shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier of such building shall, over and above the aforesaid penalty, pay all the costs, charges and expenses attendant upon the taking down, repairing, rebuilding or otherwise

If chimneys, &c., are ruinous, and occupier neglect to secure them after notice, summary proceedings may be had before a Justice.

securing such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing; and such costs, charges and expenses may be recovered and levied in the same manner as such penalty.

69. Occupier may deduct the expenses from his rent, unless there be any agreement to the contrary.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney or roof, or parapet or other wall, or any part of any building, or any chimney-pot or other thing thereon, or upon whose goods and chattels such costs, charges or expenses may be levied in pursuance of this Act, may deduct the amount of such costs, charges and expenses, and the costs, charges and expenses of such distress and sale, out of the rent due to his landlord or lessor, unless there shall be some agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier as aforesaid, or otherwise the same shall be repaid to such occupier by such lessor or landlord, and in default thereof may be recovered by such occupier from such lessor or landlord by action or suit in any of Her Majesty's Courts of Law, unless in any such case there shall be an agreement between the parties, either express or implied, to the contrary.

70. Regulations respecting fire in sheds.

And be it Enacted, That every owner or occupier, or other person in the charge or management of any shed or other building not ceiled or plastered with incombustible material, who shall make or suffer any fire to burn in any such shed or building, shall forfeit and pay a sum not exceeding *Ten Pounds* for every such offence; provided that no such owner, occupier or other person shall be liable to the said penalty in any case in which the shed or other building shall be surrounded by substantial brick or stone walls, with the exception of necessary gates or doorways therein, such walls being of sufficient height, and the shed or other building being so placed within the same that any fire in such shed or other building would not endanger any other property; and no such owner, occupier or other person shall be liable to the said penalty in any case in which such shed or other building shall be distant from every building belonging to any other person *Twenty* Yards at the least, without computing in such distance any building besides such shed or other building belonging to the owner in the holding of the occupier, or under the charge or management of the person having the charge or management of such shed or other building as aforesaid.

And

71. Existing contracts not to be vitiated.

And be it therefore Enacted, That nothing herein contained shall extend to avoid any agreement in writing made before the passing of this Act, for erecting or altering any building, but that the same shall be performed with all the alterations of the buildings comprised therein which may be rendered necessary by this Act, and as if such alterations and variations had been stipulated for in such agreement: Provided always, That the difference between the costs and expenses of the work, when performed according to the provisions of this Act, shall be ascertained by the parties to the respective agreements, and paid for or deducted accordingly, if such difference shall amount to the sum of *Twenty Pounds*, but not otherwise; and if the said parties shall not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided upon by the Surveyor of the district for the time being, who shall adjudge the amount of such difference (not being less than *Twenty Pounds*) to the increase or diminution of the money to be paid under the respective agreements, and as part thereof, for which adjudication the party requiring the same shall pay to the said Surveyor so making the adjudication a fee not less than *One Pound* nor more than *Five Pounds*, according to the amount of the difference awarded and the trouble occasioned upon the award; the amount of such fee, in case of dispute, to be settled by the Council of the Borough, or by Two Justices of the Peace in the case of an unincorporated Town.

72. Respecting contracts for leases.

And be it Enacted, That nothing herein contained shall extend or be deemed to alter or affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground, but that the buildings agreed to be built by such lease or agreement shall be built according to the conditions which may be rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, and without the lessee or tenant being entitled to any compensation, either by payment of money, reduction of rent or otherwise.

73. Recovery of penalties.

And be it Enacted, That every offence which under the authority of this Act is punishable with any pecuniary penalty, fine or forfeiture, may in every case be heard and determined in a summary way by or before any Two Justices of the Peace, or in Scotland before the Sheriff, having jurisdiction where the offence was committed, or in the City of London and Liberties thereof by the Lord Mayor or any One Alderman of the said City, upon information given or exhibited within *Three* calendar Months next after the offence was committed; and upon every such information as aforesaid, the said Justices, Mayor or Alderman shall examine into the matter thereof; and if upon confession of the party accused, or on the oath of any One credible witness, the party accused shall be convicted of having committed

such offence, then the penalty hereby made payable in respect of such offence, with the costs of conviction, to be ascertained by such Justices, Sheriff, Mayor or Alderman, shall be forthwith paid by the party convicted, and in case of non-payment thereof may be levied, as well as the costs of such proceeding, by distress and sale of the goods and chattels of the respective offenders or persons liable to pay the same, by warrant under the hands and seals of such Justices, Mayor or Alderman, or in Scotland under the hand of the Sheriff; and the overplus (if any) of the money so raised or recovered, after discharging such penalty or forfeiture, and the costs and expenses as aforesaid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained.

74. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That all persons in any Borough or Town who may think themselves aggrieved by any order of the Lord Mayor of the City of London, or of any Alderman, or Justice or Justices of the Peace, relating to anything in this Act contained, may appeal to the Court of General or Quarter Sessions having jurisdiction in such City, Borough or Town, or in Scotland to the Sheriff, the appellant first giving *Ten* Days' notice in writing of such intention to appeal, and of the grounds and nature thereof, to the party against whom such appeal is intended to be made, or whose interest shall be affected thereby, and within *Three* Days after such notice entering into a recognizance or finding caution before some Justice of the Peace, or before the Sheriff, having jurisdiction in the said City, Borough or Town, conditioned to try such appeal, and abide the order and award of the said Court thereon, and to pay such costs as shall be awarded; and the said Court shall in a summary way either hear and determine the said complaint, or, if such Court shall think fit, may adjourn the hearing thereof; and the said Court may, if such Court see cause, mitigate any penalty or forfeiture, and may order any money to be returned which shall have been levied in pursuance of such order, and may also order such further satisfaction to be made to the party injured as the Court shall think reasonable, and may also order such costs to be paid to the party aggrieved by the party aggressing as the Court shall think reasonable.

75. Distress not unlawful for want of form.

And be it Enacted, That where any distress shall be made for any money to be levied by virtue of this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case.

And

76. Plaintiff not to recover after tender of amends.

And be it Enacted, That no plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, or in, under or by virtue of any power or authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think fit, whereupon such proceeding, order and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court.

77. Decision of Sheriff to be final.

And be it Enacted, That in Scotland the decision of the Sheriff, whether original or on appeal, shall in all cases be final and conclusive, and not subject to review by suspension, adjudication, or reduction, or otherwise.

78. Interpretation.

And be it Enacted, That in this Act any word denoting a male person shall be understood to mean a female as well as a male; and any word denoting One person or thing shall be understood to mean any number of persons or things, and also bodies corporate; and the word "Owner" shall be understood to include the party in possession or receipt of the rents or profits of any tenement; and that the word "House" shall be understood to mean dwelling-house; unless in any case another sense shall be shown by the context or by some positive enactment.

79. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULES to which the foregoing ACT refers.

SCHEDULE (A.)

Number of Class or Rate.	DESCRIPTION OF BUILDINGS.	THICKNESS OF OUTER WALLS.				THICKNESS OF PARTY WALLS. (For separate and Side or End Walls, see below.)				
		In Cellar Story to Under Side of Ground Story Floor.	In Ground Story to the Top of Joists in Floor above Ground Floor.	Above to the Top of the Wall, or, if a Parapet, to the Upper Side of the Ceiling of the Top Story.	Parapet.	In Cellar Story to Under Side of Ground Story Floor.	In Ground Story to the Top of Joists in Floor above Ground Story.	Above to the Top of Joists in Floor above First Story.	Above to Under Side of the Ceiling of the Top Story.	Above through the Roof to the Top.
1.	Every Church, Chapel and other place of Public Worship - - - - Every Brewery, Distillery and Manufactory - - - - - - Every Warehouse and other Building (not being a Dwelling-house or a Building in the Fifth or Sixth Class) which is higher than Thirty-one Feet - - - Every Dwelling-house which is higher than Fifty Feet, or which contains more than Nine Squares of Building on the Ground Floor - - - - Every Dwelling-house or other Building which has more than Three clear Stories above ground - - - - -	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	2½ Bricks or 22½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.
2.	Every Warehouse or other Building (not being a Building in the First, Fifth or Sixth Class, or a Dwelling-house) which is higher than Twenty-two Feet, or which has Three clear Stories above ground - - - - - - - - Every Dwelling-house (having Three clear Stories and no more above ground) which is higher than Forty Feet - Every Dwelling-house which contains more than Five and not more than Nine Squares of Building on the Ground Floor - - - - - -	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	2½ Bricks or 22½ Inches.	2 Bricks or 17½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.

3.	Every Warehouse and other Building (not being a Dwelling-house or a Building in the First, Second, Fifth or Sixth Class) which is higher than Thirteen Feet, or which has Two clear Stories above ground - - - - - - - Every Dwelling-house (having Three clear Stories and no more above ground) which is higher than Thirty-seven feet Every Dwelling-house which contains more than Three Squares and a Half and not more than Five Squares of Building on the Ground Floor - -	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	2 Bricks or 17½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.
4.	Every Warehouse and other Building (not being a Building in the First, Fifth or Sixth Class) which is not higher than Thirteen Feet - - - - - - Every Dwelling-house (having Two clear Stories and no more above ground) which is higher than Twenty-five Feet Every Dwelling-house which has not more than One clear Story above ground, or which does not contain Three Squares and a Half of Building on the Ground Floor - - - - - - -	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	1 Brick or 8½ Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1½ Brick or 13 Inches.	1 Brick or 8½ Inches.
5.	Every Building (not being a Building of the First Class or a Dwelling-house) which is at least Four Feet and not more than Ten Feet from any public street, road or way, and at least Sixteen Feet from any other Building not in the same possession, or connected with any such Building only by a Fence or Fence Wall - - - - - -	May be built of any Dimensions, but must be built either of Brick or Stone, or covered with incombustible Materials.								
6.	Every Building, not in the First Class, which is at least Ten Feet from any public street, road or way, and at least Thirty Feet from any other Building not in the same possession, or connected with any such Building only by a Fence or Fence Wall - - - -	May be built of any Dimensions and with any Materials.								

Separate Side or End Walls between Buildings shall not be less than the length of One Brick or Eight Inches and a Half thick, or, when the Wall is higher than Twenty-four Feet, less than the length of One Brick and One-half or Thirteen Inches thick.

Where any Building is not founded on Rock, every Outer or Party Wall shall have at least Four Footing Courses below the Level of the Cellar Floor, each Two Courses projecting Two Inches and a Quarter on each side of the Course or Wall immediately above them; and all Inner Walls shall have at least Two Footing Courses Four Inches and a Half wider than the Wall above them; and all such Footings shall commence upon a firm natural or artificial Foundation, to be approved by the Surveyor.

SCHEDULE (B.)

METROPOLIS.—An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectual preventing Mischiefs by Fire, within the Cities of London and Westminster and Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bone, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law - - - - [14 Geo. 3, c. 78.]

BRISTOL.—An Act for regulating the Buildings and Party Walls within the City and County of Bristol, and for widening and improving several Streets within the same - - - - - - - [3 & 4 Vict. c. lxxvii.]

LIVERPOOL.—An Act for altering, amending, consolidating and enlarging the Provisions of certain Acts relating to the Regulation of Buildings in the Borough of Liverpool - - - - - [2 & 3 Vict. c. xcii.]

Buildings Regulation.

(No. 2.)

A

B I L L

For regulating Buildings in large Towns.

(Prepared and brought in by Mr. Fox Maule, Mr. Tufnell, and Lord Ashley.)

Ordered, by The House of Commons, to be Printed, 25 February 1842.

52.

Under 8 oz.

(No. 2.)

27 *May* 1842.—5 Vict.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For regulating Buildings in large Towns.

WHEREAS Disease is engendered and aggravated by the crowded and unhealthy manner of building the Dwellings of the Working Classes in the large Towns and populous Places of this Realm, and it is expedient to make provision for improving such Dwellings; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Council of every Borough which is within the provisions of an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any Charter granted in pursuance of that or any subsequent Act, and of every Borough which is within the provisions of an Act passed in the fourth year of the reign of Her Majesty, intituled, "An Act for the Regulation of Municipal Corporations in Ireland," and the Magistrates and Councils of every Royal Burgh and Parliamentary Burgh in Scotland, and of every Burgh of Barony or of Regality in Scotland under the Government of Magistrates and Councils, and also in England and Ireland the Justices of the Peace in General or Quarter Sessions assembled, and in Scotland the Sheriff, having jurisdiction in any other Town or Place which Her Majesty, with the advice of Her Privy Council, shall order to be within the provisions of this Act, shall within Six calendar Months next after the passing of this Act, or next after such order, and from time to time as vacancies shall happen, appoint a fit person, or so many fit persons as the Council or Justices or Sheriff respectively shall think fit, not being Surveyors of the estates of the Mayor, Aldermen and Burgesses

Preamble.

I. Councils of Boroughs and Justices assembled in Sessions to appoint Surveyors of Buildings and Assistant Surveyors. 5 & 6 W. 4, c. 76. 3 & 4 Vict. c. 108.

gesses of any Borough, or of the Corporation of any Burgh in which they are appointed, to be Surveyors of Buildings in such Borough, Town or Place, and to see that the several provisions of this Act are observed therein; and each of the said Surveyors shall have in his special charge such District of the Borough, Town or Place for which he is appointed as the Council or Justices or the Sheriff shall in that behalf appoint; and each of the said Surveyors shall hold his office during the pleasure of the Council or Justices or Sheriff by whom he is appointed, and may, if the Council or Justices or Sheriff shall so think fit, but not otherwise, have an Assistant or Assistants under him (such Assistants being in all cases appointed by and holding their situations during the pleasure of the Council or Justices or Sheriff); and the Council or Justices or Sheriff shall have authority to fix the Districts in which the said Surveyors are to act within the Borough, Town or Place, and to do all things relating in anywise to the appointment and direction of such Surveyors and Assistant Surveyors: Provided always, That if a Charter of Incorporation shall be granted to any Town or Place in which such Surveyors or Assistant Surveyors have been appointed, the future appointment of such Surveyors and Assistant-Surveyors shall be vested in the Council, as if such Town or Place were incorporated at the time of the passing of this Act.

2. Surveyors to make Declaration.

And be it Enacted, That every such Surveyor and Assistant Surveyor upon his appointment shall make and subscribe before the Mayor or Provost or Chief Magistrate of the said Borough, or before Two Justices of the Peace, or in Scotland before the Sheriff, a declaration to the effect following; (that is to say)

"I, *A. B.*, the Surveyor [*or*, Assistant Surveyor, *or*, One of the Surveyors, *or*, One of the Assistant Surveyors] of Buildings in the Borough [*or*, Town] of appointed in pursuance of an Act of Parliament passed in the *fifth* year of the reign of Queen VICTORIA, intituled, [*here set forth the title of this Act*], do declare that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my skill and ability endeavour to cause the said Act for the Regulation of Buildings in the Borough [*or*, Town] of to be strictly observed, and that without fear, favour or malice towards any person whomsoever."

3. Surveyor's Office to be appointed.

And be it Enacted, That the Council or Justices or Sheriff shall provide an office or offices for the use of the said Surveyors in some convenient place or places within the Borough, Town or Place, and shall cause due notice thereof to be given in Two or more newspapers circulating within the Borough, Town or Place; and the cost of providing such office, and of giving notice thereof, and all other expenses arising

arising out of the exercise of the duties of such Surveyors not herein otherwise provided for, shall be defrayed by the Surveyors out of the fees to be taken by them as hereinafter provided.

4. Surveyor to be paid by Fees.

And be it Enacted, That every Surveyor, Assistant Surveyor, or other person who shall inspect any such building, shall be entitled to have for his trouble therein such sum of money as shall appear to be due to him, according to a Table of Fees, to be settled from time to time by the same authority by which the Surveyor is appointed, not exceeding in any case the sum of fees hereinafter mentioned; or it shall be lawful for the Council of any Borough to direct that the Surveyors and Assistant Surveyors in their Borough shall be paid by salary instead of fees, and in that case such salaries shall be paid out of the Borough fund; and the fees to be taken according to the scale of fees then in force, shall be accounted for by the several Surveyors and Assistant Surveyors to the Treasurer of the Borough, and shall be paid over to him from time to time, provided that the fund arising out of the said fees shall not be applied to any other purpose than defraying the expense of putting this Act in execution.

5. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, for improving the City of Oxford.

Provided always, and be it Enacted, That in the city of Oxford the Surveyors of Buildings shall be appointed, and all other powers herein given to the Councils of Boroughs shall be exercised by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge, through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes and Places within the said University and City, and the Suburbs thereof, and the said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other purposes."

6. Surveyors appointed under Local Building Acts to be Surveyors under this Act.

Provided always, and be it Enacted, That the Surveyors appointed under any of the Acts specified in the Schedule annexed to this Act shall be the Surveyors for enforcing this Act within the limits of the said several Acts, and shall be entitled to receive for their trouble herein such additional fees, not exceeding in any case the sum of , or such salary to be paid out of the fees collected under this Act as shall be from time to time ordered and settled by the authority by which they are appointed.

7. Buildings and additions to be surveyed within One calendar Month after finished, and declaration made of conformity to this Act.

And be it Enacted, That every master builder, workman or other person by whom any building shall be built, or any addition made thereunto, shall, within One calendar Month after such building shall have been covered in or such addition completed, cause notice thereof in writing to be left at the Surveyor's office; and the Surveyor within whose district the same is situated shall forthwith proceed to survey such building, or in case he shall by illness or otherwise be prevented from surveying such building, or shall be interested therein as aforesaid, then the same shall be surveyed by any other Surveyor appointed under and by virtue of this Act, or by some Assistant Surveyor; and such Surveyor or Assistant Surveyor shall, once in each calendar Month, make a declaration in writing before the Mayor, Provost, or Chief Magistrate, or some Justice of the Peace, or in Scotland before the Sheriff, having jurisdiction where such Surveyor or Assistant Surveyor is employed, specifying the several buildings which he shall have surveyed in the foregoing month, and which he shall have found to be built according to this Act, and also those which he shall have found to be built contrary to this Act; and the said declaration shall be entered in books to be provided for that purpose, and kept in the custody of the said Surveyors in their offices, which books shall be from time to time produced to the Mayor, Provost, or Chief Magistrate, or any Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where such Surveyor is employed, whenever required by any of them respectively.

8. Penalty on builder neglecting to give notice.

And be it Enacted, That every master builder, workman or other person by whom any building or alteration as aforesaid shall be erected or made within the limits of this Act, or by whom the same shall be completed, who shall neglect to give any notice required by this Act respecting the same, shall for every such neglect forfeit and pay a sum not exceeding Five Pounds

9. Penalty on persons refusing inspection.

And be it Enacted, That every owner or occupier of any building, and every other person interested therein, who shall begin to build or rebuild, or make any addition to any building, and who shall refuse to any such Surveyor or Assistant Surveyor appointed under this Act admittance from time to time, at reasonable hours in the daytime, for the purpose of inspecting the said building or addition, or who shall in anywise interrupt or hinder any such Surveyor or Assistant Surveyor from surveying the same, shall for every such offence forfeit and pay a sum not exceeding Ten Pounds; and every building built or begun to be built, or to which any addition shall be made as aforesaid, without such admittance as aforesaid being allowed, in case the same be not built in every respect agreeably to the regulations of this Act, shall and may be taken down or amended by order of any Justice of the Peace, or in Scotland by order of the Sheriff, in the manner hereinafter directed.

10. Houses not to be built below the level of the ground without areas.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any house in which the floor of any room or cellar to be used as a dwelling shall be Feet below the surface or level of the ground in the immediate neighbourhood of such house, unless there shall be an area not less than Three Feet wide from the floor of such room or cellar to the top of the area adjoining to the front or back of such room or cellar, and extending from one side or party wall to the other side or party wall, which area shall be either open or covered with an iron grating, of which the bars shall not be less than One Inch asunder; but this enactment shall not be taken to prevent any archway or covering which may be laid across such area for the purpose of approaching the doorway of the house.

11. Occupation of cellars in houses hereafter to be built.

And be it Enacted, That in any house to be built within the limits of this Act after the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, any underground cellar or room not having a window and fireplace, as well as such an area adjoining thereunto as is hereinbefore specified.

12. Occupation of cellars in houses already built.

And be it Enacted, That in any house built within the limits of this Act before the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, after the First day of January in the year One thousand eight hundred and Forty-five, any underground cellar or room not having a window, or after the First day of January in the year One thousand eight hundred and Forty-eight, any underground cellar or room not having, in addition to such window, such an area not less than Two Feet wide, as is hereinbefore described, or after the First day of January in the year One thousand eight hundred and Fifty-one, any underground cellar or room not having a fireplace in addition to such window and area.

13 Penalty.

And be it Enacted, That every person who shall wilfully let or suffer to be occupied any underground cellar or room contrary to the provisions of this Act shall forfeit and pay the sum of Twenty Shillings for every day that such cellar or room shall be so occupied, to be recovered by action of debt, either by the person occupying such cellar or room, or any other person who will sue for the same.

14. Regulating width of streets.

And be it Enacted, That it shall not be lawful to build any new street, alley or public passage within the limits of this Act, except such as were begun or laid out before the passing of this Act, under the authority of any Act of Parliament, unless the houses therein shall be separated by at least Thirty Feet where there is a carriageway between such houses, or at least Twenty Feet in the case of alleys and foot passages where there is no carriageway.

15. Level of the ground floors.

And be it Enacted, That the level of the ground floor of every house which shall be built within the limits of this Act shall be at least Six Inches above the level of the footway or road adjoining such house.

16. Regulating height of rooms in small houses.

And be it Enacted, That no room which shall be built within the limits of this Act to be used as a dwelling on the cellar or ground floor, or elsewhere than in the upper story of any house which is not higher than Forty Feet, or which does not contain more than Five Squares of building on the ground floor, shall be less than Eight Feet in height from the floor to the ceiling, and no room in the upper story of any such house shall be less than Seven Feet in height from the floor to the ceiling.

17. Only one story in the roof.

And be it Enacted, That there shall not be more than one story in any part of the roof of any house or other building which shall be built within the limits of this Act.

18. Yards and necessary houses to be provided for small houses.

And be it Enacted, That no house which is not higher than Forty Feet, or which does not contain more than Five Squares of building on the ground floor, except houses in a street or thoroughfare which was begun or laid out before the passing of this Act, under the authority of any Act of Parliament, shall be built within the limits of this Act without a privy, with proper doors and coverings to the same, either in the house or in some sufficiently convenient place set apart for the purpose, and sufficiently screened and fenced from public view, to the satisfaction of the Surveyor of the district.

19. All buildings erected contrary to this Act to be abated.

And be it Enacted, That if any person after the passing of this Act shall build or begin to build or add to any building contrary to the provisions thereof, and be thereof convicted on oath before any Two Justices of the Peace, or in Scotland before the Sheriff of the county, having jurisdiction where the offence is committed, then the owner of the said building so irregularly built or added to, or other person for whom or by whose order the said building shall be made, and the builder employed, or one of them, as the said Justices or Sheriff shall require, shall enter into a recognizance, in such sum as the said Justices or Sheriff shall appoint, to take down the same within such convenient time as the said Justices or Sheriff shall appoint, or otherwise to amend the same according to the regulations in this Act contained, and also to pay the expenses of laying the information and obtaining the conviction; and in default of entering into such recognizance, it shall be lawful for the said Justices, by warrant under their hands and seals, or for the Sheriff in Scotland, by warrant under his hand, to order any such building to be taken down or altered, and to order the person by them authorized to take down the same to sell the materials

materials thereof, and out of the monies arising from the sale thereof to pay himself, and all persons by him employed for the purposes aforesaid, the reasonable charges of taking down such building, and also the expenses of laying the information and obtaining a conviction, and to pay the surplus of such monies arising by such sale to the owner of such materials, or to such person as the said Justices or Sheriff shall order for such owner; and if the monies arising by such sale be not sufficient to defray such charges, the deficiency shall be levied upon and recovered from the owner or other person for whom or by whose order such building shall be made or added to, in like manner as penalties are by this Act directed to be levied and recovered; or, in case such Justices or Sheriff shall think it more expedient, the person so making default shall be committed to the common gaol, there to remain for such time as the said Justices or Sheriff shall determine, not more than Three calendar Months, such imprisonment to cease whenever the said building shall be abated, taken down, or otherwise amended according to the order of the said Justices or Sheriff and the provisions of this Act: Provided always, That no proceeding for any such conviction shall be had after the end of Three calendar Months after the building shall have been finished or the addition completed.

20. For preventing neglect or evasion of this Act.

AND whereas it is expedient to make further provision for the detection of any neglect or the wilful evasion of the provisions in this Act; BE it Enacted, That it shall be lawful for any Surveyor appointed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or addition to any building, against any owner, occupier, builder, or other person, for any default made in complying with the provisions of this Act, at any time within Three calendar Months after such default shall have been made; provided that the person intending to commence such proceedings, if not one of the said Surveyors, shall give notice of his intention at the office of the Surveyor of the district; and in case any person having duly begun any building requiring compliance with the provisions of this Act shall suspend the progress and completion of such building for any period exceeding Two calendar Months, and shall again go on with the same, or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall be given to the Surveyor of the district, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding Twenty Pounds, to be recovered as hereinafter mentioned.

21. Regulations as to estimating heights of walls, &c.

And be it Enacted, That in this Act the heights of all walls shall be estimated from the street level, unless where any building is more than Fifteen Feet from the street, in which case the height of front shall be measured from the level of the ground at the principal entrance, and the several squares of building, each of which shall be taken to contain One hundred superficial Feet, shall be taken on the level of the floor at the principal entrance to the dwelling-house, and shall include so much only of the party walls as belong to such house.

22. Such buildings as shall be presented as nuisances may be taken down.

And be it Enacted, That if any presentment shall be made by any inquest or grand jury at any Court of General or Quarter Sessions of the Peace having jurisdiction within the limits of this Act, or if any Four or more Householders living near any building or wall, shall, by writing under their hands, present to the Council of the Borough, or to Two Justices of the Peace, or in Scotland to the Sheriff of the County, in the case of an unincorporated Town, that any building or wall within their jurisdiction and within the limits of this Act is in a ruinous or dangerous condition, the Council of the said Borough, or the said Justices, or Sheriff in the case of an unincorporated Town, on notice of any such presentment being given to them, and the same or a copy thereof being laid before them, shall cause a survey of the said building or wall to be made with all convenient speed by the Surveyor of the district; and if upon such survey it shall be certified to them that the said building or wall is dangerous or ruinous, the Council or Justices or Sheriff (as the case may be) shall immediately cause a proper hoard or fence to be put up, and shall cause notice in writing to be given to the owner or other person interested therein, if he can be found in the said Borough or Town, and if not, shall cause such notice to be put upon the door or other conspicuous part of the premises so presented to be ruinous or dangerous, or upon the said hoard or fence, requiring such owner or other person so interested to take down, secure or repair such building or wall, as the case shall require, within the space of Fourteen Days then next ensuing; and if such owner or other person so interested as aforesaid shall not begin to repair, take down or secure the building or wall so presented to be ruinous or dangerous within the space of Fourteen Days after any such notice shall be so given or put up as aforesaid, and complete such repairs or taking down as speedily as the nature of the case will admit, then the Council or Justices or Sheriff (as the case may be) shall with all convenient speed cause such building or wall, or so much thereof as shall be in such ruinous condition, or likely to be dangerous to passengers passing by the same, to be taken down and secured in such manner as shall from time to time be thought requisite, and shall sell such of the old materials as may be expedient, and out of the money arising therefrom shall reimburse themselves, and every person by them employed, all the charges of putting up any such hoard or fence, and of taking down or securing such building or wall, and of

selling

selling the materials, or so much thereof as the monies arising from any such sale will extend to pay, and shall account for and pay over the surplus to the owner or other person interested in such building or wall, upon demand thereof made, and if no demand be made within Six calendar Months, then such surplus shall go to the Borough Fund or common good of the said borough, or, in the case of an unincorporated Town, in aid of the poor-rate, or for the benefit of the poor of the parish, township or place where such ruinous or dangerous building or wall was situated.

23. Expense to be borne by owner.

And be it Enacted, That all the charges of putting up every such fence, and of taking down and securing all or so much of such ruinous or dangerous building or wall as shall be necessary to be taken down or made secure for the safety of passengers passing that way, shall from time to time be paid by the owner of such building or wall, if he can be found within the said Borough or Town; and if such owner shall, on demand thereof, neglect or refuse to pay the same, then such charges may, by warrant under the hand and seal of any Justice of the Peace having jurisdiction where such building or wall is situated, be levied by distress and sale of the goods and chattels of such owner, if any such can be found, in the Borough or Town or place where such building or wall is situated; and if no such owner can be found in the said Borough or Town or place, or no sufficient distress of his goods and chattels can be made, then and in every such case the person who shall at any time thereafter occupy any such building or ground shall pay the same, and may deduct the amount so paid out of the rent thereof; provided that no occupier shall be liable to pay more than what he can lawfully deduct from such rent; and if he shall neglect or refuse to pay such charges, then the same shall, by warrant under the hand and seal of any Justice having jurisdiction within such Borough, Town or place, be levied by distress of the goods and chattels of any such occupier, in the same manner as penalties are by this Act directed to be levied, together with the costs of every such distress and sale; and the owner shall allow to every such occupier all such charges which he shall so pay, or which shall be levied by distress from him as aforesaid; and every occupier paying any charges shall be acquitted and discharged for so much money as he shall so pay, in the same manner as if the same had been actually paid to the person to whom his rent may be payable.

24. Persons taking down and repairing buildings to set up a sufficient fence, with platform for foot passengers, and a light during the night.

And be it Enacted, That every person who shall take down any building, or cause the same to be taken down, or who shall alter or repair the outward part of any building, or cause the same to be done, shall cause to be put up a proper and sufficient hoard or fence, in all cases in which the footway shall be thereby obstructed or rendered inconvenient, with a convenient platform and hand-rail, if there shall be room enough for the same to serve as a footway for passengers outside

side of such hoard or fence, and shall continue such hoard or fence in such cases as aforesaid, with such platform and hand-rail as aforesaid, standing in good condition during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same shall be necessary to prevent accidents, cause the same to be well lighted during the night; and every such person who shall refuse or neglect to set up any such fence or hoard or platform, with such hand-rail as aforesaid, or to continue the same respectively standing and in good condition during the time aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted in the night, shall for every such offence forfeit a sum not exceeding Five Pounds.

Penalty for neglect.

25. If chimneys, &c., are ruinous, and occupier neglect to secure them after notice, summary proceedings may be had before a Justice.

And be it Enacted, That if the chimney or roof, or parapet or other wall, or any other part of any building, or any chimney-pot or other thing thereon, shall be deemed by any Surveyor acting under the authority of this Act to be in a ruinous or dangerous state, such Surveyor shall give notice thereof under his hand to the occupier of such building, either personally or by leaving the same at or affixed to some conspicuous part of the said building, requiring such occupier or other person interested therein forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or other person interested in such building shall not begin to take down, repair, rebuild or secure the same within the space of Two clear Days after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, it shall be lawful for the said Surveyor to give information thereof to any Justice of the Peace, or in Scotland the Sheriff, having jurisdiction within the Borough or Town, who shall proceed thereupon to hear the matter, and if any immediate danger is apprehended shall cause such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing thereon, as shall be considered to be in a dangerous state, to be forthwith taken down, shored up or otherwise secured, and in case no immediate danger is apprehended shall direct the occupier or other person interested in the said building, to take down, repair, rebuild or otherwise secure the same, to the satisfaction of such Surveyor, within a time to be fixed by such Justice or Sheriff; and in case the same shall not be taken down, repaired, rebuilt or otherwise secured, within the time to be limited as aforesaid, the occupier of such building shall forfeit and pay the sum of Five Pounds for every day during which the same shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier of such building shall, over and above the aforesaid penalty, pay all the costs, charges and expenses attendant

attendant upon the taking down, repairing, rebuilding or otherwise securing such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing; and such costs, charges and expenses may be recovered and levied in the same manner as such penalty.

26. Occupier may deduct the expenses from his rent, unless there be any agreement to the contrary.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney or roof, or parapet or other wall, or any part of any building, or any chimney-pot or other thing thereon, or upon whose goods and chattels such costs, charges or expenses may be levied in pursuance of this Act, may deduct the amount of such costs, charges and expenses, and the costs, charges and expenses of such distress and sale, out of the rent due to his landlord or lessor, unless there shall be some agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier as aforesaid, or otherwise the same shall be repaid to such occupier by such lessor or landlord, and in default thereof may be recovered by such occupier from such lessor or landlord by action or suit in any of Her Majesty's Courts of Law, unless in any such case there shall be an agreement between the parties, either express or implied, to the contrary.

27. Existing contracts not to be vitiated.

And be it therefore Enacted, That nothing herein contained shall extend to avoid any agreement in writing made before the passing of this Act, for erecting or altering any building, but that the same shall be performed with all the alterations of the buildings comprised therein which may be rendered necessary by this Act, and as if such alterations and variations had been stipulated for in such agreement: Provided always, That the difference between the costs and expenses of the work, when performed according to the provisions of this Act, shall be ascertained by the parties to the respective agreements, and paid for or deducted accordingly, if such difference shall amount to the sum of Twenty Pounds, but not otherwise; and if the said parties shall not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided upon by the Surveyor of the district for the time being, who shall adjudge the amount of such difference (not being less than Twenty Pounds) to the increase or diminution of the money to be paid under the respective agreements, and as part thereof, for which adjudication the party requiring the same shall pay to the said Surveyor so making the adjudication a fee not less than One Pound nor more than Five Pounds, according to the amount of the difference awarded and the

trouble occasioned upon the award; the amount of such fee, in case of dispute, to be settled by the Council of the Borough, or by Two Justices of the Peace in the case of an unincorporated Town.

28. Respecting contracts for leases.

And be it Enacted, That nothing herein contained shall extend or be deemed to alter or affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground, but that the buildings agreed to be built by such lease or agreement shall be built according to the conditions which may be rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, and without the lessee or tenant being entitled to any compensation, either by payment of money, reduction of rent or otherwise.

29. Recovery of penalties.

And be it Enacted, That every offence which under the authority of this Act is punishable with any pecuniary penalty, fine or forfeiture, may in every case be heard and determined in a summary way by or before any Two Justices of the Peace, or in Scotland before the Sheriff, having jurisdiction where the offence was committed, or in the City of London and Liberties thereof by the Lord Mayor or any One Alderman of the said City, upon information given or exhibited within Three calendar Months next after the offence was committed; and upon every such information as aforesaid, the said Justices, Mayor or Alderman shall examine into the matter thereof; and if upon confession of the party accused, or on the oath of any One credible witness, the party accused shall be convicted of having committed such offence, then the penalty hereby made payable in respect of such offence, with the costs of conviction, to be ascertained by such Justices, Sheriff, Mayor or Alderman, shall be forthwith paid by the party convicted, and in case of non-payment thereof may be levied, as well as the costs of such proceeding, by distress and sale of the goods and chattels of the respective offenders or persons liable to pay the same, by warrant under the hands and seals of such Justices, Mayor or Alderman, or in Scotland under the hand of the Sheriff; and the overplus (if any) of the money so raised or recovered, after discharging such penalty or forfeiture, and the costs and expenses as aforesaid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained.

30. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That all persons in any Borough or Town who may think themselves aggrieved by any order of the Lord Mayor of the City of London, or of any Alderman, or Justice or Justices of the Peace, relating to anything in this Act contained, may appeal to the Court of General or Quarter Sessions having jurisdiction in such City, Borough or Town, or in Scotland to the Sheriff, the appellant first giving Ten Days' notice in writing of such intention to appeal, and of the grounds and nature thereof, to the party against whom such appeal is intended

to

to be made, or whose interest shall be affected thereby, and within Three Days after such notice entering into a recognizance or finding caution before some Justice of the Peace, or before the Sheriff, having jurisdiction in the said City, Borough or Town, conditioned to try such appeal, and abide the order and award of the said Court thereon, and to pay such costs as shall be awarded; and the said Court shall in a summary way either hear and determine the said complaint, or, if such Court shall think fit, may adjourn the hearing thereof; and the said Court may, if such Court see cause, mitigate any penalty or forfeiture, and may order any money to be returned which shall have been levied in pursuance of such order, and may also order such further satisfaction to be made to the party injured as the Court shall think reasonable, and may also order such costs to be paid to the party aggrieved by the party aggressing as the Court shall think reasonable.

31. Distress not unlawful for want of form.

And be it Enacted, That where any distress shall be made for any money to be levied by virtue of this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case.

32. Plaintiff not to recover after tender of amends.

And be it Enacted, That no plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, or in, under or by virtue of any power or authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think fit, whereupon such proceeding, order and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court.

33. Decision of Sheriff to be final.

And be it Enacted, That in Scotland the decision of the Sheriff, whether original or on appeal, shall in all cases be final and conclusive, and not subject to review by suspension, adjudication, or reduction, or otherwise.

34. Interpretation.

And be it Enacted, That in this Act any word denoting a male person shall be understood to mean a female as well as a male; and

any word denoting One person or thing shall be understood to mean any number of persons or things, and also bodies corporate; and the word "Owner" shall be understood to include the party in possession or receipt of the rents or profits of any tenement; and that the word "House" shall be understood to mean dwelling-house; unless in any case another sense shall be shown by the context or by some positive enactment.

35. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULE to which the foregoing ACT refers.

METROPOLIS.—An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectual preventing Mischiefs by Fire, within the Cities of London and Westminster and Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bone, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law - - - - [14 Geo. 3, c. 78.]

BRISTOL.—An Act for regulating the Buildings and Party Walls within the City and County of Bristol, and for widening and improving several Streets within the same - - - - - - [3 & 4 Vict. c. lxxvii.]

LIVERPOOL.—An Act for altering, amending, consolidating and enlarging the Provisions of certain Acts relating to the Regulation of Buildings in the Borough of Liverpool - - - - - [2 & 3 Vict. c. xcii.]

(No. 2.)

27 *June* 1842.—6 Vict.

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEES]

For regulating Buildings in large Towns.

[N. B.—*The Clauses marked* (A.) (B.) *and* (C.) *were added by the Select Committees.*]

WHEREAS Disease is engendered and aggravated by the crowded and unhealthy manner of building the Dwellings of the Working Classes in the large Towns and populous Places of this Realm, and it is expedient to make provision for improving such Dwellings; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Council of every Borough which is within the provisions of an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any Charter granted in pursuance of that or any subsequent Act, and the Magistrates and Councils of every Royal Burgh and Parliamentary Burgh in Scotland, and of every Burgh of Barony or of Regality in Scotland under the Government of Magistrates and Councils, and also in England the Justices of the Peace in General or Quarter Sessions assembled, and in Scotland the Sheriff, having jurisdiction in any other Town or Place which Her Majesty, with the advice of Her Privy Council, shall order to be within the provisions of this Act, shall within Six calendar Months next after the passing of this Act, or next after such order, and from time to time as vacancies shall happen, appoint a fit person, or so many fit persons as the Council or Justices or Sheriff respectively shall think fit, not being Surveyors of the estates of the Mayor, Aldermen and Burgesses

Preamble.

1. Councils of Boroughs and Justices assembled in Sessions to appoint Surveyors of Buildings and Assistant Surveyors. 5 & 6 W. 4, c. 76. 3 & 4 Vict. c. 108.

gesses of any Borough, or of the Corporation of any Burgh in which they are appointed, to be Surveyors of Buildings in such Borough, Town or Place, and to see that the several provisions of this Act are observed therein; and each of the said Surveyors shall have in his special charge such District of the Borough, Town or Place for which he is appointed, as the Council or Justices or the Sheriff shall in that behalf appoint; and each of the said Surveyors shall hold his office during the pleasure of the Council or Justices or Sheriff by whom he is appointed, and may, if the Council or Justices or Sheriff shall so think fit, but not otherwise, have an Assistant or Assistants under him (such Assistants being in all cases appointed by and holding their situations during the pleasure of the Council or Justices or Sheriff); and the Council or Justices or Sheriff shall have authority to fix the Districts in which the said Surveyors are to act within the Borough, Town or Place, and to do all things relating in anywise to the appointment and direction of such Surveyors and Assistant Surveyors: Provided always, That if a Charter of Incorporation shall be granted to any Town or Place in which such Surveyors or Assistant Surveyors have been appointed, the future appointment of such Surveyors and Assistant Surveyors shall be vested in the Council, as if such Town or Place were incorporated at the time of the passing of this Act.

2. Surveyors to make Declaration.

And be it Enacted, That every such Surveyor and Assistant Surveyor upon his appointment shall make and subscribe before the Mayor or Provost or Chief Magistrate of the said Borough, or before Two Justices of the Peace, or in Scotland before the Sheriff, a declaration to the effect following; (that is to say)

"I, *A. B.*, the Surveyor [*or*, Assistant Surveyor, *or*, One of the Surveyors, *or*, One of the Assistant Surveyors] of Buildings in the Borough [*or*, Town] of appointed in pursuance of an Act of Parliament passed in the sixth year of the reign of Queen VICTORIA, intituled, [*here set forth the title of this Act*], do declare, That I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my skill and ability endeavour to cause the said Act for the Regulation of Buildings in the Borough [*or*, Town] of to be strictly observed, and that without fear, favour or malice towards any person whomsoever."

3. Surveyor's Office to be appointed.

And be it Enacted, That the Council or Justices or Sheriff shall provide an office or offices for the use of the said Surveyors in some convenient place or places within the Borough, Town or Place, and shall cause due notice thereof to be given in Two or more newspapers circulating within the Borough, Town or Place; and the cost of providing such office, and of giving notice thereof, and all other expenses arising

arising out of the exercise of the duties of such Surveyors not herein otherwise provided for, shall be defrayed by the Surveyors out of the fees to be taken by them as hereinafter provided.

4. Surveyor to be paid by Fees.

And be it Enacted, That every Surveyor, Assistant Surveyor, or other person who shall inspect any such building, shall be entitled to have for his trouble therein such sum of money as shall appear to be due to him, according to a Table of Fees, to be settled from time to time by the same authority by which the Surveyor is appointed, not exceeding in any case the sum of Ten Shillings; or it shall be lawful for the Council of any Borough to direct that the Surveyors and Assistant Surveyors in their Borough shall be paid by salary instead of fees, and in that case such salaries shall be paid out of the Borough fund, having been previously approved of by one of Her Majesty's Principal Secretaries of State; and the fees to be taken according to the scale of fees then in force, shall be accounted for by the several Surveyors and Assistant Surveyors to the Treasurer of the Borough, and shall be paid over to him from time to time, provided that the fund arising out of the said fees shall not be applied to any other purpose than defraying the expense of putting this Act in execution.

5. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, for improving the City of Oxford.

Provided always, and be it Enacted, That in the city of Oxford the Surveyors of Buildings shall be appointed, and all other powers herein given to the Councils of Boroughs shall be exercised by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge, through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes and Places within the said University and City, and the Suburbs thereof, and the said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other purposes."

6. Surveyors appointed under Local Building Acts to be Surveyors under this Act.

Provided always, and be it Enacted, That the Surveyors appointed under any of the Acts specified in the Schedule annexed to this Act shall be the Surveyors for enforcing this Act within the limits of the said several Acts, and shall be entitled to receive for any additional duty imposed on them by this Act, such additional fees not exceeding in any case the sum of Ten Shillings, or such salary to be paid out of the fees collected under this Act, as shall be from time to time ordered and settled by the authority by which they are appointed.

7.
CLAUSE (A.) In certain cases powers of Surveyors to be exercised by Dean of Guild Court.

Provided always, and be it Enacted, That it shall be lawful for the Town Council of any Burgh in Scotland in which there is a Dean of Guild Court, if they shall think fit, instead of appointing any Surveyor under this Act, to declare that the powers of the Surveyors under this Act shall be exercised in that Burgh by the Dean of Guild Court, and in that case no Surveyor under this Act shall be appointed in that Burgh; but the Dean of Guild Court shall have and exercise there all the powers and duties herein given to the Surveyors to be appointed elsewhere as herein provided, and that nothing contained in this Act shall be construed to impair or lessen any powers now vested in the Dean of Guild Court of any Burgh in Scotland.

8.
CLAUSE (B.) Notice of building or altering Premises to be left at the Surveyor's Office.

And be it Enacted, That Three Days at least before any house within the provisions of this Act, or any addition therein, shall be begun to be built within the limits of this Act, notice thereof in writing, together with the plans of such house or addition shall be left at the office of the Surveyor of the district, signed by the master builder or workman or other person who shall be employed or be about to build or add to such house, or by the owner of the property or other person for whom or by whose order such works shall be ordered to be done, stating in general terms the nature of the intended work, and the place where the same is to be done or carried on, and the name and place of abode of the owner of the property or other person for whom or by whose order such work shall be ordered to be done, and the name and place of abode of the master builder or workman or other person who shall be employed or shall be intended to be employed therein; and the Surveyor within whose district the same shall be, shall inspect the said buildings or addition from time to time, and shall cause all the rules of this Act relative to the proper construction of buildings to be well and truly observed.

9.
Buildings and additions to be surveyed within One calendar Month after finished, and declaration made of conformity to this Act.

And be it Enacted, That every master builder, workman or other person by whom any house shall be built, or any addition made thereunto, shall, within One calendar Month after such building shall have been covered in or such addition completed, cause notice thereof in writing to be left at the Surveyor's office; and the Surveyor within whose district the same is situated shall forthwith proceed to survey such building, or in case he shall by illness or otherwise be prevented from surveying such building, or shall be interested therein as aforesaid, then the same shall be surveyed by any other Surveyor appointed under and by virtue of this Act, or by some Assistant Surveyor; and such Surveyor or Assistant Surveyor shall, once in each calendar Month, make a declaration in writing before the Mayor, Provost, or Chief Magistrate, or some Justice of the Peace, or in Scotland before the Sheriff, having jurisdiction where such Surveyor or Assistant Surveyor is employed, specifying the several buildings which

which he shall have surveyed in the foregoing month, and which he shall have found to be built according to this Act, and also those which he shall have found to be built contrary to this Act; and the said declaration shall be entered in books to be provided for that purpose, and kept in the custody of the said Surveyors in their offices, which books shall be from time to time produced to the Mayor, Provost, or Chief Magistrate, or any Justice of the Peace, or in Scotland to the Sheriff, having jurisdiction where such Surveyor is employed, whenever required by any of them respectively; and all persons shall be entitled to inspect the said books at all reasonable hours at the Surveyor's office, upon payment of the fee of and to have copies of so much of the said books as they shall desire to have delivered to them, certified as a true extract of such books, under the hand of the Surveyor or some person to be employed for that purpose in his office, on payment of for every words which shall be so copied.

10. Penalty on builder neglecting to give notice.

And be it Enacted, That every master builder, workman or other person by whom any house or addition thereto as aforesaid shall be erected or made within the limits of this Act, or by whom the same shall be completed, who shall neglect to give any notice required by this Act respecting the same, shall for every such neglect forfeit and pay a sum not exceeding Five Pounds,

11. Penalty on persons refusing inspection.

And be it Enacted, That every owner or occupier of any building, and every other person interested therein, who shall begin to build or rebuild, or make any addition to any building, and who shall refuse to any such Surveyor or Assistant Surveyor appointed under this Act admittance from time to time, at reasonable hours in the daytime, for the purpose of inspecting the said building or addition, or who shall in anywise interrupt or hinder any such Surveyor or Assistant Surveyor from surveying the same, shall for every such offence forfeit and pay a sum not exceeding Twenty Pounds.

12. Houses not to be built below the level of the ground without areas.

And be it Enacted, That it shall not be lawful to build within the limits of this Act any house in which the floor of any room or cellar to be used as a separate dwelling shall be Four Feet below the surface or level of the ground immediately adjoining and contiguous to such room or cellar, unless there shall be an area not less than Three Feet wide from the floor of such room or cellar to the top of the area adjoining to the front or back of such room or cellar, and extending from one side or party wall to the other side or party wall, which area shall be either open or covered with an iron grating, of which the bars shall not be less than One Inch asunder; but this enactment shall not be taken to prevent any archway or covering which may be laid across such area for the purpose of approaching the doorway of the house.

13. Occupation of cellars in houses hereafter to be built.

And be it Enacted, That in any house to be built within the limits of this Act after the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, any underground cellar or room not having a window and fireplace, as well as such an area adjoining thereunto as is hereinbefore specified.

14. Occupation of cellars in houses already built.

And be it Enacted, That in any house built within the limits of this Act before the passing thereof, it shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied for hire as a dwelling-place, after the First day of January in the year One thousand eight hundred and Forty-five, any underground cellar or room not having a window, or after the First day of January in the year One thousand eight hundred and Forty-eight, any underground cellar or room not having, in addition to such window, a fire-place.

15. Penalty.

And be it Enacted, That every person who shall wilfully let or suffer to be occupied any underground cellar or room contrary to the provisions of this Act shall forfeit and pay the sum of not less than Twenty Shillings, and not more than Ten Pounds, to be recovered either by the person occupying such cellar or room, or any Surveyor or Assistant Surveyor appointed under the provisions of this Act.

16. Regulating width of streets.

And be it Enacted, That it shall not be lawful to build any new street, alley, public passage, court-yard or place where dwelling-houses shall be built, within the limits of this Act, except such as were begun or laid out before the passing of this Act, unless the houses therein shall be separated by at least Thirty Feet where there is a carriageway between such houses, or at least Twenty Feet in the case of alleys and foot passages where there is no carriageway.

17. Level of the ground floors.

And be it Enacted, That the level of the ground floor of every house which shall be built within the limits of this Act shall be at least Six Inches above the level of the footway or road adjoining such house.

18. Regulating height of rooms in small houses.

And be it Enacted, That no room which shall be built within the limits of this Act to be used as a dwelling on the cellar or ground floor, or elsewhere than in the upper story of any house which is not higher than Forty Feet, or which does not contain more than Five Squares of building on the ground floor, shall be less than Eight Feet in height from the floor to the ceiling, and no room in the upper story of any such house shall be less than Seven Feet in height from the floor to the ceiling.

19. Only one story in the roof.

And be it Enacted, That there shall not be more than one story in any part of the roof of any house or other building which shall be built within the limits of this Act.

20. Yards and necessary houses to be provided for small houses.

And be it Enacted, That no house which is not higher than Forty Feet, or which does not contain more than Five Squares of building on the ground floor, except houses in a street or thoroughfare which was begun or laid out before the passing of this Act, shall be built within the limits of this Act without a privy, with proper doors and coverings to the same, either in the house or in some sufficiently convenient place set apart for the purpose, and sufficiently screened and fenced from public view, to the satisfaction of the Surveyor of the district.

21. All buildings erected contrary to this Act to be abated.

And be it Enacted, That if any person after the passing of this Act shall build or begin to build or add to any building contrary to the provisions thereof, and be thereof convicted on oath before any Two Justices of the Peace, or in Scotland before the Sheriff of the county, having jurisdiction where the offence is committed, then the owner of the said building so irregularly built or added to, or other person for whom or by whose order the said building shall be made, and the builder employed, or one of them, as the said Justices or Sheriff shall require, shall enter into a recognizance, in such sum as the said Justices or Sheriff shall appoint, to take down the same within such convenient time as the said Justices or Sheriff shall appoint, or otherwise to amend the same according to the regulations in this Act contained, and also to pay the expenses of laying the information and obtaining the conviction; and in default of entering into such recognizance, it shall be lawful for the said Justices, by warrant under their hands and seals, or for the Sheriff in Scotland, by warrant under his hand, to order any such building to be taken down or altered, and to order the person by them authorized to take down the same to sell the materials thereof, and out of the monies arising from the sale thereof to pay himself, and all persons by him employed for the purposes aforesaid, the reasonable charges of taking down such building, and also the expenses of laying the information and obtaining a conviction, and to pay the surplus of such monies arising by such sale to the owner of such materials, or to such person as the said Justices or Sheriff shall order for such owner; and if the monies arising by such sale be not sufficient to defray such charges, the deficiency shall be levied upon and recovered from the owner or other person for whom or by whose order such building shall be made or added to, in like manner as penalties are by this Act directed to be levied and recovered; or, in case such Justices or Sheriff shall think it more expedient, the person so making default shall be committed to the common gaol, there to remain for such time as the said Justices or Sheriff shall determine, not more than Three calendar Months, such imprison-

ment to cease whenever a recognizance as aforesaid shall be entered into that the said building shall be abated, taken down, or otherwise amended according to the order of the said Justices or Sheriff and the provisions of this Act: Provided always, That no proceeding for any such conviction shall be had after the end of Three calendar Months after the building shall have been finished or the addition completed.

22. For preventing neglect or evasion of this Act.

AND whereas it is expedient to make further provision for the detection of any neglect or the wilful evasion of the provisions in this Act; BE it Enacted, That it shall be lawful for any Surveyor appointed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or addition to any building, against any owner, occupier, builder, or other person, for any default made in complying with the provisions of this Act, at any time within Three calendar Months after such default shall have been made; provided that the person intending to commence such proceedings, if not one of the said Surveyors, shall give notice of his intention at the office of the Surveyor of the district; and in case any person having duly begun any building requiring compliance with the provisions of this Act shall suspend the progress and completion of such building for any period exceeding Two calendar Months, and shall again go on with the same, or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall be given to the Surveyor of the district, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding Twenty Pounds, to be recovered as hereinafter mentioned.

23. Regulations as to estimating heights of walls, &c.

And be it Enacted, That in this Act the heights of all walls shall be estimated from the street level, unless where any building is more than Fifteen Feet from the street, in which case the height of front shall be measured from the level of the ground at the principal entrance, and the several squares of building, each of which shall be taken to contain One hundred superficial Feet, shall be taken on the level of the floor at the principal entrance to the dwelling-house, and shall include so much only of the party walls as belong to such house.

24. Such buildings as shall be presented as nuisances may be taken down.

And be it Enacted, That if any presentment shall be made by any inquest or grand jury at any Court of General or Quarter Sessions of the Peace having jurisdiction within the limits of this Act, or if any Four or more Householders living near any building or wall, shall, by writing under their hands, present to the Council of the Borough, or to

Two

Two Justices of the Peace, or in Scotland to the Sheriff of the County, in the case of an unincorporated Town, that any building or wall within their jurisdiction and within the limits of this Act is in a ruinous or dangerous condition, the Council of the said Borough, or the said Justices, or Sheriff in the case of an unincorporated Town, on notice of any such presentment being given to them, and the same or a copy thereof being laid before them, shall cause a survey of the said building or wall to be made with all convenient speed by the Surveyor of the district; and if upon such survey it shall be certified to them that the said building or wall is dangerous or ruinous, the Council or Justices or Sheriff (as the case may be) shall immediately cause a proper hoard or fence to be put up, and shall cause notice in writing to be given to the owner or other person interested therein, if he can be found in the said Borough or Town, and if not, shall cause such notice to be put upon the door or other conspicuous part of the premises so presented to be ruinous or dangerous, or upon the said hoard or fence, requiring such owner or other person so interested to take down, secure or repair such building or wall, as the case shall require, within the space of Fourteen Days then next ensuing; and if such owner or other person so interested as aforesaid shall not begin to repair, take down or secure the building or wall so presented to be ruinous or dangerous within the space of Fourteen Days after any such notice shall be so given or put up as aforesaid, and complete such repairs or taking down or securing as speedily as the nature of the case will admit, then the Council or Justices or Sheriff (as the case may be) shall with all convenient speed cause such building or wall, or so much thereof as shall be in such ruinous condition, or likely to be dangerous to passengers passing by the same, to be taken down or secured in such manner as shall from time to time be thought requisite, and shall sell such of the old materials as may be expedient, and out of the money arising therefrom shall reimburse themselves, and every person by them employed, all the charges of putting up any such hoard or fence, and of taking down or securing such building or wall, and of selling the materials, or so much thereof as the monies arising from any such sale will extend to pay, and shall account for and pay over the surplus to the owner or other person interested in such building or wall, upon demand thereof made, and if no demand be made within Six calendar Months, then such surplus shall go to the Borough Fund or common good of the said borough, or, in the case of an unincorporated Town, in aid of the poor-rate, or for the benefit of the poor of the parish, township or place where such ruinous or dangerous building or wall was situated.

25. Expense to be borne by owner.

And be it Enacted, That all the charges of putting up every such fence, and of taking down and securing all or so much of such ruinous or dangerous building or wall as shall be necessary to be taken down or made secure for the safety of passengers passing that way, shall from

time to time be paid by the owner of such building or wall, if he can be found within the said Borough or Town; and if such owner shall, on demand thereof, neglect or refuse to pay the same, then such charges may, by warrant under the hand and seal of any Justice of the Peace having jurisdiction where such building or wall is situated, be levied by distress and sale of the goods and chattels of such owner, if any such can be found, in the Borough or Town or place where such building or wall is situated; and if no such owner can be found in the said Borough or Town or place, or no sufficient distress of his goods and chattels can be made, then and in every such case the person who shall at any time thereafter occupy any such building or ground shall pay the same, and may deduct the amount so paid out of the rent thereof; provided that no occupier shall be liable to pay more than what he can lawfully deduct from such rent; and if he shall neglect or refuse to pay such charges, then the same shall, by warrant under the hand and seal of any Justice having jurisdiction within such Borough, Town or place, be levied by distress of the goods and chattels of any such occupier, in the same manner as penalties are by this Act directed to be levied, together with the costs of every such distress and sale; and the owner shall allow to every such occupier all such charges which he shall so pay, or which shall be levied by distress from him as aforesaid; and every occupier paying any charges shall be acquitted and discharged for so much money as he shall so pay, in the same manner as if the same had been actually paid to the person to whom his rent may be payable.

26. Persons taking down and repairing buildings to set up a sufficient fence, with platform for foot passengers, and a light during the night.

And be it Enacted, That every person who shall take down any building, or cause the same to be taken down, or who shall alter or repair the outward part of any building, or cause the same to be done, shall cause to be put up a proper and sufficient hoard or fence, in all cases in which the footway shall be thereby obstructed or rendered inconvenient, with a convenient platform and hand-rail, if there shall be room enough for the same to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence in such cases as aforesaid, with such platform and hand-rail as aforesaid, standing in good condition during such time as may be necessary for the public safety or convenience, and shall, in all cases in which the same shall be necessary to prevent accidents, cause the same to be well lighted during the night; and every such person who shall refuse or neglect to set up any such fence or hoard or platform, with such hand-rail as aforesaid, or to continue the same respectively standing and in good condition during the time aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted in the night, shall for every such offence forfeit a sum not exceeding Five Pounds.

Penalty for neglect.

And

27. If chimneys, &c., are ruinous, and occupier neglect to secure them after notice, summary proceedings may be had before a Justice.

And be it Enacted, That if the chimney or roof, or parapet or other wall, or any other part of any building, or any chimney-pot or other thing thereon, shall be deemed by any Surveyor acting under the authority of this Act to be in a ruinous or dangerous state, such Surveyor shall give notice thereof under his hand to the occupier of such building, either personally or by leaving the same at or affixed to some conspicuous part of the said building, requiring such occupier or other person interested therein forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or other person interested in such building shall not begin to take down, repair, rebuild or secure the same within the space of Two clear Days after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, it shall be lawful for the said Surveyor to give information thereof to any Justice of the Peace, or in Scotland the Sheriff, having jurisdiction within the Borough or Town, who shall proceed thereupon to hear the matter, and if any immediate danger is apprehended shall cause such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing thereon, as shall be considered to be in a dangerous state, to be forthwith taken down, shored up or otherwise secured, and in case no immediate danger is apprehended shall direct the occupier or other person interested in the said building, to take down, repair, rebuild or otherwise secure the same, to the satisfaction of such Surveyor, within a time to be fixed by such Justice or Sheriff; and in case the same shall not be taken down, repaired, rebuilt or otherwise secured, within the time to be limited as aforesaid, the occupier of such building shall forfeit and pay the sum of Two Pounds for every day during which the same shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier of such building shall, over and above the aforesaid penalty, pay all the costs, charges and expenses attendant upon the taking down, repairing, rebuilding or otherwise securing such chimney or roof, or parapet or other wall, or other part of such building, or such chimney-pot or other thing; and such costs, charges and expenses may be recovered and levied in the same manner as such penalty.

28. Occupier may deduct the expenses from his rent, unless there be any agreement to the contrary.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney or roof, or parapet or other wall, or any part of any building, or any chimney-pot or other thing thereon, or upon whose goods and chattels such costs, charges or expenses may be levied in pursuance of this Act, may deduct the

amount of such costs, charges and expenses, and the costs, charges and expenses of such distress and sale, out of the rent due to his landlord or lessor, unless there shall be some agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier as aforesaid, or otherwise the same shall be repaid to such occupier by such lessor or landlord, and in default thereof may be recovered by such occupier from such lessor or landlord by action or suit in any of Her Majesty's Courts of Law, unless in any such case there shall be an agreement between the parties, either express or implied, to the contrary.

29. Existing contracts not to be vitiated.

And be it therefore Enacted, That nothing herein contained shall extend to avoid any agreement in writing made before the passing of this Act, for erecting or altering any building, but that the same shall be performed with all the alterations of the buildings comprised therein which may be rendered necessary by this Act, and as if such alterations and variations had been stipulated for in such agreement: Provided always, That the difference between the costs and expenses of the work, when performed according to the provisions of this Act, shall be ascertained by the parties to the respective agreements, and paid for or deducted accordingly, if such difference shall amount to the sum of Twenty Pounds, but not otherwise; and if the said parties shall not agree upon the amount of such difference, the same shall, on the request of either party (notice being given to the other), be decided upon by the Surveyor of the district for the time being, who shall adjudge the amount of such difference (not being less than Twenty Pounds) to the increase or diminution of the money to be paid under the respective agreements, and as part thereof, for which adjudication the party requiring the same shall pay to the said Surveyor so making the adjudication a fee not less than One Pound nor more than Five Pounds, according to the amount of the difference awarded and the trouble occasioned upon the award; the amount of such fee, in case of dispute, to be settled by the Council of the Borough, or by Two Justices of the Peace in the case of an unincorporated Town.

30. Respecting contracts for leases.

And be it Enacted, That nothing herein contained shall extend or be deemed to alter or affect any lease or agreement for a lease whereby any person may be bound to erect buildings upon any building ground, but that the buildings agreed to be built by such lease or agreement shall be built according to the conditions which may be rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement,

ment, and without the lessee or tenant being entitled to any compensation, either by payment of money, reduction of rent or otherwise.

31. Recovery of penalties.

And be it Enacted, That every offence which under the authority of this Act is punishable with any pecuniary penalty, fine or forfeiture, may in every case be heard and determined in a summary way by or before any Two Justices of the Peace, or in Scotland before the Sheriff, having jurisdiction where the offence was committed, or in the City of London and Liberties thereof by the Lord Mayor or any One Alderman of the said City, upon information given or exhibited within Three calendar Months next after the offence was committed; and upon every such information as aforesaid, the said Justices, Mayor or Alderman shall examine into the matter thereof; and if upon confession of the party accused, or on the oath of any One credible witness, the party accused shall be convicted of having committed such offence, then the penalty hereby made payable in respect of such offence, with the costs of conviction, to be ascertained by such Justices, Sheriff, Mayor or Alderman, shall be forthwith paid by the party convicted, and in case of non-payment thereof may be levied, as well as the costs of such proceeding, by distress and sale of the goods and chattels of the respective offenders or persons liable to pay the same, by warrant under the hands and seals of such Justices, Mayor or Alderman, or in Scotland under the hand of the Sheriff; and the overplus (if any) of the money so raised or recovered, after discharging such penalty or forfeiture, and the costs and expenses as aforesaid, shall be returned, on demand, to the party whose goods and chattels shall have been distrained.

32. Persons aggrieved may appeal to Quarter Sessions.

And be it Enacted, That all persons in any Borough or Town who may think themselves aggrieved by any order of the Lord Mayor of the City of London, or of any Alderman, or Justice or Justices of the Peace, relating to anything in this Act contained, may appeal to the Court of General or Quarter Sessions having jurisdiction in such City, Borough or Town, or in Scotland to the Sheriff, the appellant first giving Ten Days' notice in writing of such intention to appeal, and of the grounds and nature thereof, to the party against whom such appeal is intended to be made, or whose interest shall be affected thereby, and within Three Days after such notice entering into a recognizance or finding caution before some Justice of the Peace, or before the Sheriff, having jurisdiction in the said City, Borough or Town, conditioned to try such appeal, and abide the order and award of the said Court thereon, and to pay such costs as shall be awarded; and the said Court shall in a summary way either hear and determine the said complaint, or, if such Court shall think fit, may adjourn the hearing thereof; and the said Court may, if such Court see cause, mitigate any penalty or forfeiture, and may order any money to be returned which shall

have been levied in pursuance of such order, and may also order such further satisfaction to be made to the party injured as the Court shall think reasonable, and may also order such costs to be paid to the party aggrieved by the party aggressing as the Court shall think reasonable.

33. Distress not unlawful for want of form.

And be it Enacted, That where any distress shall be made for any money to be levied by virtue of this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case.

34. Plaintiff not to recover after tender of amends.

And be it Enacted, That no plaintiff shall recover in any action for any irregularity, trespass or other wrongful proceeding made or committed in the execution of this Act, or in, under or by virtue of any power or authority hereby given, if tender of sufficient amends shall have been made by or on behalf of the party who shall have committed such irregularity, trespass or other wrongful proceeding before such action brought; and in case no tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall think fit, whereupon such proceeding, order and adjudication shall be had and made in and by such Court as in other actions where defendants are allowed to pay money into Court.

35. Decision of Sheriff to be final.

And be it Enacted, That in Scotland the decision of the Sheriff, whether original or on appeal, shall in all cases be final and conclusive and not subject to review by suspension, adjudication, or reduction, or otherwise.

36. Clause (C.) Excepting the Borough of Liverpool from the operation of the Act.

AND whereas an Act has been passed in the present Session of Parliament, intituled, "An Act for the Promotion of the Health of the Inhabitants of the Borough of Liverpool, and the better Regulation of Buildings in the said Borough;" BE it therefore Enacted, That none of the provisions of this Act shall extend or apply to the district included within the limits of the said last-mentioned Act.

37. Interpretation.

And be it Enacted, That in this Act any word denoting a male person shall be understood to mean a female as well as a male; and any word denoting One person or thing shall be understood to mean any number of persons or things, and also bodies corporate; and the word

word "Owner" shall be understood to include the party in possession or receipt of the rents or profits of any tenement; and that the word "House" shall be understood to mean dwelling-house; unless in any case another sense shall be shown by the context or by some positive enactment.

38. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULE to which the foregoing ACT refers.

METROPOLIS.—An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectual preventing Mischiefs by Fire, within the Cities of London and Westminster and Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bone, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the] Limits aforesaid contrary to Law - - - - [14 Geo. 3, c. 78.

BRISTOL.—An Act for regulating the Buildings and Party Walls within the City and County of Bristol, and for widening and improving several Streets within the same - - - - - - [3 & 4 Vict. c. lxxvii.]

Buildings Regulation.

(No. 2.)

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEES]

For regulating Buildings in large Towns.

(*Prepared and brought in by*
Mr. Fox Maule, Mr. Tufnell, and
Lord Ashley.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1842.

371.

Under 3 oz.

A

B I L L,

INTITULED,

AN ACT for the Improvement of certain Boroughs.

WHEREAS it will be much for the benefit of the inhabitants of many Borough Towns if power be given for opening and widening the close and narrow streets, alleys, passages and places therein, and for otherwise improving the Town; and it is expedient that such powers be vested in the Councils of such Boroughs, under the restrictions hereinafter contained; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in this Act the word "Council" shall be taken to mean the Council of the Mayor, Aldermen and Burgesses of every borough which is within the provisions of an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any charter granted in pursuance of that or any subsequent Act, and of every borough which is within the provisions of an Act passed in the fourth year of the reign of Her Majesty, intituled, "An Act for the Regulation of Municipal Corporations in Ireland;" and that where power is hereinafter given to the council to do any act, it shall be understood to mean that the council is empowered to do such act in the name and on behalf of the Mayor, Aldermen and Burgesses whose council they are; and that the word "Lands" shall be understood to mean messuages, lands and tenements; and that any word denoting the singular number or masculine gender shall be understood to mean any number of persons, and females as well as males; and that the word "Person" shall be understood to mean also a body

Preamble:

1. Meaning of the words "Council" and "Lands."

5 & 6 W. 4, c. 76.

3 & 4 Vict. c. 108.

body corporate; unless in any case there shall be some positive enactment to the contrary, or something in the context inconsistent with such meaning.

2. Council may contract with owners for purchase of land.

And be it Enacted, That for the purpose of opening, widening or otherwise improving any street or place within the borough, and for any of the purposes of this Act, the council shall have power to agree with the owners of any lands in or near the streets and places which the council shall deem expedient to be taken for opening, widening or improving the said streets or places, or for any other purpose of this Act, either for the absolute purchase thereof, or of any part thereof, or for any damage thereunto to be sustained by any person interested therein in effecting such improvements, or otherwise in the execution of this Act, and to agree with every such person for the removal of any projections, encroachments or other obstructions, and to take down or alter all or any of the messuages and tenements so purchased, or any part thereof, or which may be part of the estate of the Mayor, Aldermen and Burgesses of the borough, and to lay the sites thereof, or any part thereof, or any land which may be cleared by the taking down of any such messuages and tenements, into the streets, or build other messuages and tenements upon so much of the land as will not be required for the streets, or otherwise appropriate the same for the improvement of the town and borough, as the council shall think fit; and any such sites or lands which shall be laid into the said streets or places shall thereafter form part thereof, and of the public highways, and shall be maintained and repaired in the same manner as the other part of such streets or places; and such part of any of the said streets or places as in consequence of the said improvements may not be longer wanted for such streets and places shall remain, freed and discharged from the public use thereof, vested in the parties who are now by law entitled thereto, subject nevertheless to the right of any commissioners for paving any of the said streets or places, at any time within One calendar Month after notice in writing given to them by the council to remove and take away any pavement or flagging thereupon belonging to the said commissioners.

3. Names of streets and numbers of houses to be put up.

And be it Enacted, That the council may from time to time, as they shall think fit, cause to be painted, engraved or otherwise described, and placed on a conspicuous part of any one or more of the houses or buildings at or near each end, corner or entrance of any road, street, square, way, lane or other public passage or place within the said borough, the name by which such road, street, square, way, lane or other public passage or place now is or shall be called or known, and may also from time to time, and when they shall think fit, cause every house, shop and building in the several roads, streets, squares,

squares, ways, lanes and other public passages and places in the said borough to be marked and numbered with figures, either on the door thereof or otherwise, and in such manner as they shall think fit for distinguishing the same; and every person who shall wilfully destroy, obliterate, deface or (without the consent of the said council first obtained) remove or alter any such name, number or figure, or any part thereof, or cause or procure the same to be so done, shall for every such offence forfeit and pay a sum not more than Ten Shillings.

4. Compulsory powers.

And be it Enacted, That in any of the following cases the council shall be empowered, if they think fit, to take any lands which they shall require for the purposes of this Act, with or without the consent of the several owners and other persons interested therein, subject nevertheless to the provisions for ascertaining and giving compensation for the value of such lands, and for the other purposes hereinafter contained; (that is to say)

1. When any such lands are needed for the purpose of opening a thoroughfare through any court or alley which is closed at either end:

2. When any such lands are needed for the purpose of widening any thoroughfare which is narrower than Twenty Feet:

3. When any such lands project Ten Feet or more beyond the general line of the street:

4. When the council shall have agreed with the owners thereof for the absolute purchase of the lands on each side of the lands so required to be taken, the value of those already agreed for being at least ten times the value of those not agreed for:

5. When any such messuages or tenements built before the passing of this Act are contrary to the provisions of an Act passed in this Session of Parliament, intituled, "An Act for regulating Buildings in large Towns and Villages," and are not amended according to the provisions of the said Act, within Six calendar Months after notice thereof given by the council to the owner or occupier thereof:

Provided always, That it shall not be lawful for the council to take any such messuages, lands or tenements, without the consent of the owners and other persons interested therein, unless with the approval of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings.

5. Plan and Book of Reference to be prepared.

And be it Enacted, That in all cases where it is intended to apply to the Commissioners of Her Majesty's Woods and Forests, Land Revenues, Works and Buildings for their approval, to authorize the Mayor, Aldermen and Burgesses to take any lands for the purposes

of this Act without the consent of the persons interested therein, notice of such intention shall be given to the owner or occupier of such lands, or affixed thereunto, and shall also be published in some newspapers circulating within the borough in Three successive Weeks, One calendar Month at least before such application shall be made, and that a Plan, on a scale not less than One Inch in Fifty Feet, shall be prepared in duplicate, showing the line or situation of the intended work, and the lands through which it is to be carried or made, with a Book of Reference, also in duplicate, containing the name of the owners or reputed owners, lessees or reputed lessees, and occupiers thereof respectively; and One Copy of such Plan shall be deposited in the office of the Town Clerk, on or before the first publication of the notice in the newspaper, and shall be open during Two calendar Months, at all reasonable times there, to the inspection of all persons interested therein, and the other Copy of such Plan and Book of Reference shall be sent to the Commissioners of Her Majesty's Woods and Forests, Land Revenues, Works and Buildings, when application shall be made for their approval of such work.

6. Inquiry by Commissioners of Woods and Forests.

And be it Enacted, That upon any such application made to them by the Mayor, Aldermen and Burgesses of any borough, and upon such proof as is satisfactory to the said Commissioners that the notices have been duly given, and the plan and book of reference duly made and deposited as aforesaid, the said Commissioners shall be empowered to inquire whether or not the intended work is of such public usefulness to the town, and the inhabitants thereof, that they ought to sanction the taking of the lands so required to be taken without the consent of the persons interested therein, and shall direct a person of competent skill to view the lands required to be taken, who shall give One Week's notice of the time when he will attend for the purpose of viewing the same, and of inquiring into the matter, (such notice to be published within the borough in such manner as the said Commissioners shall direct,) and for that purpose shall hold a public inquiry within the borough at a time and place to be named in the notice; and all persons who shall deem themselves interested therein or likely to be aggrieved thereby shall be entitled to be heard, by themselves, their counsel, attornies, agents and witnesses, before such person, and such person shall report the evidence taken before him, and his opinion thereon, to the said Commissioners; and thereupon it shall be lawful for the Commissioners, if they shall think fit, to approve the taking of the lands required to be taken without the consent of the persons interested therein: Provided always, That in every such case the Mayor, Aldermen and Burgesses shall enter into a recognizance to Her Majesty, Her heirs and successors, in such sum as the said Commissioners shall think reasonable, to complete the work within such reasonable time as shall be therein named, for

for which such lands are required to be taken, as shown in the plan, or not deviating more than Ten Yards from the line shown in the plan without the consent of the said Commissioners; and a certificate of the completion of any such work under the common seal of the Mayor, Aldermen and Burgesses, and under the hand of the Mayor for the time being, shall be sent to the said Commissioners within the time allowed for completion of the work, otherwise the said recognizance shall be taken to be forfeited.

7. Persons under legal disability empowered to sell and convey lands.

And be it Enacted, That it shall be lawful for every tenant in tail or for life, or for any other partial or qualified estate or interest, husband, guardian, trustee and feoffee in trust for charitable or other purposes, committee, executor, administrator, and every trustee, and every other person and corporation whomsoever, not only for and on behalf of themselves, their heirs or successors, but also for and on behalf of all persons entitled in reversion, remainder or expectancy after them, if incapacitated or not to be found, and for and on behalf of their wives, wards, lunatics and idiots respectively, and in the same manner and to the same extent as such wives, wards, lunatics and idiots respectively could have done by law under the powers of this Act in case they had been sole, of full age, and of sound mind, and for and on behalf of every cestuique trust, whether infants, issue unborn, lunatics, idiots, femes covert, or other persons, and for every feme covert seised, possessed of, or interested in her own right, or entitled to dower or other interest therein, and for every other person or corporation seised or possessed of or interested in any such land, to contract for, sell and convey the same, or any part thereof, or any estate or interest therein, unto the Mayor, Aldermen and Burgesses of such borough.

8. Form of Conveyance to the Mayor, Aldermen and Burgesses.

And be it Enacted, That all such contracts, sales and conveyances may be according to the following Form, or as near thereto as the number of the parties and the circumstances of the case will reasonably admit; (that is to say)

"I [*or* we] of in consideration of the Sum of to me [*or* us, *or* into the Bank of England (or Ireland), and with the privity of the Accountant-General of the Court of Exchequer (*or* of Chancery), *ex parte* the Mayor, Aldermen and Burgesses of the Borough of *or* to *A. B.* of and *C. D.* of their heirs and assigns, Two Trustees appointed to receive the same, *as the case may be*,] paid by the Mayor, Aldermen and Burgesses of the Borough of acting under an Act passed in the fifth year of the reign of Her Majesty Queen Victoria, intituled [*here set forth the Title of this Act*], Do hereby convey

convey to the said Mayor, Aldermen and Burgesses, their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights and appurtenances thereunto belonging, and all such estate, right, title and interest in and to the same and every part thereof, as I am [*or* we are] or shall become seised or possessed of, or am [*or* are] by the said Act enabled or empowered to convey or surrender, to hold the premises to the said Mayor, Aldermen and Burgesses, their successors or assigns, for ever, according to the true intent and meaning of the said Act. In witness whereof I [*or* we] have hereunto set my hand and seal [*or* our hands and seals] the day of in the year of our Lord :"

And all such conveyances shall, without enrolment, be valid and effectual to all intents and purposes, not only to convey the estate and interest of the party conveying, but also to convey all the right, estate and interest, use, trust, property, possession, claim and demand whatsoever of every cestuique trust, and all persons whomsoever claiming or having title to claim by, from, through, under, or after every person executing such conveyance, and of all persons and corporations entitled in remainder or reversion expectant on any particular estate; and the same shall merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby convened or aliened, and shall bar and destroy the dower of the wife of every party conveying, and all estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts and interests whatsoever of and in the same.

9. Power to purchase the release of land wanted from rents charged thereon.

And be it Enacted, That where any land purchased or intended to be purchased by the council under this Act shall be subject, solely or jointly with other land not intended to be purchased, to any rent, payment or incumbrance, it shall be lawful for the council to agree, in consideration of a sum of money in gross to be paid by the Mayor, Aldermen and Burgesses, for the release of the lands so purchased or intended to be purchased from such rent, payment or incumbrance, and also, where necessary or convenient, for an apportionment of such rent, payment or incumbrance, for such sum as shall be agreed upon between the council and the party who under the provisions of this Act shall agree to sell or apportion the same, and which agreement may be entered into by every person by this Act empowered to sell or convey land; and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a jury, if required, in like manner as the price of land is by this Act directed to be settled in case of dispute as to the value thereof,

thereof, which jury shall assess and determine the value of the rent, payment or incumbrance affecting the land purchased, or wanted or intended to be purchased, and shall also (where necessary) apportion the rent, payment or incumbrance affecting the land jointly subject to the rent, payment or incumbrance as hereinbefore mentioned, according to the respective value of the land purchased or intended to be purchased, and of the land not purchased or not intended to be purchased by the council; and all contracts, conveyances and assurances which shall be made by and between or to the council, or the Mayor, Aldermen and Burgesses of the borough, and any such party as aforesaid, respecting such release (which may be of the like form, or to the like effect, with such changes therein as the case requires, as by this Act is directed to be used in the case of conveyances of land), shall be valid and effectual in the law, and shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be: Provided always, That when any land purchased by the council shall be released from any rent, payment or incumbrance affecting the same jointly with other land not so purchased, such last-mentioned land shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the title to the remaining rent, or the remedies for such remainder: Provided always, That no release or apportionment of any rent, payment or incumbrance, when the same shall be settled by agreement between the parties, shall be valid unless the same shall be made with the consent and approbation of the owner or person or corporation entitled to the remainder of the land jointly subject to such rent, payment or incumbrance: Provided also, That when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the council, on tender for that purpose of any deed or instrument creating or transferring such rent, payment or incumbrance, to affix the common seal of the Mayor, Aldermen and Burgesses to a memorandum endorsed on such deed or instrument, declaring what part of the land originally subject to such rent, payment or incumbrance shall have been purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance shall have been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable; and such memorandum shall be evidence in all courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

10. Rents on leases to be apportioned.

And be it Enacted, That in all cases in which a part only of any land comprised in any lease or agreement for lease for a term of years unexpired shall be required for the purposes of this Act, the rent payable in respect of the land therein comprised shall be apportioned between the land required for the purposes of this Act and the residue of such land; and such apportionment shall, in case the same shall not

be settled by agreement between the parties, be settled by the verdict of a jury, if required, in like manner as the price of any land to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and the lessor from whom such land is holden or agreed to be holden may appear and be heard, either in person or by his counsel, before such jury; and no agreement for such apportionment shall be valid without the consent of such lessor; and after such apportionment the tenant or lessee of the land shall, as to all future accruing rent, be liable only to so much of the rent as shall have been apportioned in respect of the land not required for the purposes of this Act, and the lessor shall have the same remedies for the recovery of rents so apportioned, in respect of the land not required for the purposes of this Act, as before such apportionment he had in respect of the whole rent; and the covenants, conditions, and agreements in such lease or agreement for lease contained, so far as the same relate to land not required for the purposes of this Act, but not further or otherwise, shall continue in full force.

11. Upon payment or tender of principal and interest, mortgagees to convey.

And be it Enacted, That every person having any mortgage on any land to be taken for the purposes of this Act (whether entitled thereto in his own right or in trust, and whether in possession under mortgage or not,) shall, on payment or tender by the Mayor, Aldermen and Burgesses, or by any person by them authorized, of the principal money and interest due thereon, and the just costs (if any) then due, alien, release, assign and transfer such mortgaged premises to the Mayor, Aldermen and Burgesses, or to such person and in such manner as they shall appoint; which alienation, release, assignment and transfer may be of the like form as the conveyances by this Act directed to be used in cases of conveyance of land, or as near thereto as the circumstances of the case will permit, or in any other more suitable form; and in case any such mortgagee shall refuse to convey as aforesaid on such tender or payment, then all interest on every such mortgage debt shall thenceforth cease; and upon payment by the council of the principal money and interest, and the costs (if any) due on any such mortgage in England into the Bank of England, and in Ireland into the Bank of Ireland, the cashier of such bank shall give a receipt for the said money, in like manner as is by this Act directed in case of other payments into the said bank; and thereupon all the estate and interest of such mortgagee, and of all persons in trust for him, shall vest in the Mayor, Aldermen and Burgesses: Provided always, That where by the term of any mortgage the mortgagee is entitled to notice before the mortgage debt is to be paid off, the council shall be bound either to give the like notice or to pay into the Bank of England or Ireland, as the case may be, for the use of such mortgagee, besides the other monies, the interest which would have accrued during the time for which such notice was required to be given.

And

12. Directing in what manner disputes between the Mayor, Aldermen and Burgesses, and certain mortgagees, shall be settled.

And be it Enacted, That in all cases in which the whole or part of any land subject to any mortgage shall be required for the purposes of this Act, which land shall be of less value than the principal money, interest and costs secured thereon, the mortgagee whereof shall not consider the remaining part of such land to be a sufficient security for the money charged thereon, and all interest due or to become due thereon, and all costs, the value of such part of the said land as shall be so required, and also the compensation (if any) for any damage done, shall be settled between such mortgagee and the person entitled to the equity of redemption of such land on the one part, and the Mayor, Aldermen and Burgesses on the other part; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference; and the amount of such value and compensation, being so agreed upon or determined as aforesaid, shall be paid to such mortgagee in satisfaction of his claim, so far as the same shall extend, and such mortgagee shall thereupon alien, release, assign and transfer all his interest in so much of such mortgaged land as shall be required, or in case of his neglecting so to convey, then the amount of such value and compensation shall be paid into the Bank of England, or in Ireland to the Bank of Ireland, to the credit of such mortgagee as is by this Act provided in cases of a like nature; and such payment to the mortgagee, or into the Bank as last aforesaid, shall be in satisfaction of the claim of such mortgagee, so far as the same will extend, and also in full discharge of such part of the mortgaged premises as shall be so taken from all principal and interest, costs and other money due or secured thereon, and thereupon all the estate and interest of such mortgagee in such part of the mortgaged land shall become absolutely vested in the Mayor, Aldermen and Burgesses: Provided nevertheless, That all mortgagees shall have the same powers for compelling payment of their mortgage money, or the residue or interest thereof respectively, as they would otherwise have had out of the whole of the land: Provided also, That when a part only of any land subject to any mortgage shall have been so taken, and the value of the land so taken shall have been paid to the mortgagee, a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, at the time of executing such assignments to the Mayor, Aldermen and Burgesses, and shall be executed by such mortgagee; and a copy of such memorandum shall at the same time, if required, be furnished by the Mayor, Aldermen and Burgesses, at their expense, to the person entitled to the equity of redemption of the land comprised in such mortgage deed.

13. Parties to deliver a statement of their estates and claims within Two

And be it Enacted, That on or before the expiration of Two calendar Months next after notice in writing from the Mayor, Aldermen and Burgesses, or the Town Clerk of the said borough, of their intention

calendar Months after notice.

to take any land for the purposes of this Act, which under this Act they are empowered to take with or without the consent of the persons interested therein, shall have been given to any person seised, possessed of or interested in the same, or for any damage sustained on account of the execution of this Act, such person shall deliver or cause to be delivered at the office of the Town Clerk a statement in writing of the particulars of the estate and interest which he claims to be entitled to, and of the damage sustained by him, and of the amount of the sum of money which he is willing to receive in satisfaction for the value of such estate and interest and for such damage respectively.

14. In case the parties refuse or are incapable to treat, the value of land and of damages to be settled by a jury.

And be it Enacted, That if any person interested or entitled to any land which, under the provisions herein contained, the Mayor, Aldermen and Burgesses are empowered to take with or without the consent of the parties interested therein, shall not agree with the Mayor, Aldermen and Burgesses as to the amount of such purchase-money or other compensation, or if any of the parties entitled to receive such purchase-money or other compensation shall refuse to accept the same, and shall give notice thereof to the Mayor, Aldermen and Burgesses within Two calendar Months next after such offer shall have been made, and the party giving such notice shall therein request that the matter in dispute may be submitted to the determination of a jury, or if any such person shall, for the space of Two calendar Months next after notice in writing shall have been given to any such person, or left at his last or usual place of abode, or with the tenant or occupier of any land required for the purposes of this Act, neglect or refuse to treat, or shall not agree with the Mayor, Aldermen and Burgesses for the sale, conveyance or release of his estate or interest, or shall by reason of absence be prevented from treating, or shall by reason of any impediment or disability, whether provided for by this Act or not, be incapable of making such agreement, conveyance or release as shall be necessary or expedient for enabling the Mayor, Aldermen and Burgesses to take such lands or to proceed in the execution of the works hereby authorized, or shall not disclose and prove the state of the title to the premises of which he is in possession, and which he may claim to be entitled to or interested in, or in any other case where agreement for compensation for damages incurred in the execution of this Act, or for the purchase of land required for the purposes of this Act, cannot be made, then and in every such case the council shall from time to time issue a warrant, under the common seal of the said Mayor, Aldermen and Burgesses, to the Sheriff or other person having the return of jurors to serve in the Court of Sessions of the Peace for such borough, requiring him to impannel, summon and return, and the Sheriff or other person as aforesaid shall impannel, summon and return, a jury of at least

Twenty-four

Twenty-four sufficient and indifferent men, qualified according to the laws of this realm to be returned for trials of issues joined in Her Majesty's Courts of Record at Westminster, or Dublin, when such return is made in Ireland; and the persons so to be impannelled, summoned and returned shall appear before the Court of General or Quarter Sessions of the Peace having jurisdiction in the said borough, or at some adjournment thereof, as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impannelled, summoned and returned, a jury of Twelve Men shall be drawn by the Clerk of the Peace, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn, or at Dublin, when the jury is drawn in Ireland; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, the Clerk of the Peace shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all persons concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Clerk of the Peace shall be empowered and required, on request in writing by either party, to summon before the said Court of General or Quarter Sessions of the Peace all persons that shall be thought necessary to be examined as witnesses touching the matters in question, and may order the same jury, or any Six or more of them, to view the place or matter in controversy; and such jury shall, upon their oath, inquire of and assess and give a verdict for the sum of money to be paid for the purchase of such lands, except for such interest therein as shall have been purchased by the Mayor, Aldermen and Burgesses from any other person, and also the sum of money to be paid by way of compensation either for the damage which shall before that time have been done, or for the future damage to be so done, which compensation for such damage shall be assessed separately from the value of the land so to be taken, and the Court shall give judgment for such purchase-money or compensation as shall be assessed by such jury; which said verdict, and the judgment to be pronounced as aforesaid, shall be binding upon all persons whomsoever; and in such inquiry the person claiming compensation shall have all such privileges as plaintiffs in actions at law are entitled to: Provided also, That not less than Seven Days' notice in writing of the time and place at which such jury are so required to be returned shall be given by the Mayor, Aldermen and Burgesses to the party with whom any such dispute shall arise, either by delivering such notice to such party, or by leaving the same at his place of abode, or with some tenant or occupier of the premises intended to be valued, or respecting which, or any damages to which, any such question shall arise.

15. Compensation-money to be apportioned.

And be it Enacted, That the said juries shall, if required, settle what shares of the purchase-money and compensation, which shall be assessed as aforesaid, shall be allowed to any tenant, or other person having a particular estate or interest in the premises, by way of lease or otherwise, for his interest therein.

16. Verdicts to be recorded.

And be it Enacted, That the said verdicts and judgments shall be kept, by the Clerk of the Peace, among the records of the Court of Sessions of the Peace, and shall be deemed records to all intents and purposes; and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of One Shilling; and also to take or make copies thereof, paying for every copy after the rate of Sixpence for every One hundred Words.

17. Penalty upon Sheriff, Clerk of the Peace, jurors, or witnesses making default.

And be it Enacted, That every Sheriff, Clerk of the Peace, or other person who shall make default in the premises, shall, for every such offence, forfeit and pay the sum of Fifty Pounds to the party who shall be injured thereby, to be recovered, with full costs of suit, by action of debt or on the case, in any of Her Majesty's Courts of Record at Westminster or Dublin, or in Her Majesty's Court of Common Pleas at Lancaster; and that every person so summoned and returned upon any such jury as aforesaid who shall not appear, or appearing, shall refuse to be sworn, or to make affirmation where entitled to affirm instead of swearing, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty, contrary to the true meaning of this Act; and every person so summoned to give evidence as aforesaid, who shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing, shall refuse to be sworn or to give evidence, having no reasonable excuse, to be judged of by the court, by the party for whom or on whose account any such jury or witness shall have been summoned, shall forfeit any sum not exceeding Twenty Pounds; which said last-mentioned penalty or forfeiture shall be levied, by warrant issuing out of the said court, by distress and sale of the goods and chattels of the person so offending, rendering to him, on demand, the overplus of the money thereby produced (if any), after such penalty and the charges and expenses of such distress and sale shall have been deducted.

18. Jurors to be under the same regulations as those of the courts at Westminster.

And be it Enacted, That every such jury shall be subject to the same regulations, pains and penalties as if such jury had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster or Dublin respectively; and all persons who, in any examination to be taken by virtue of this Act, upon their oath or upon their affirmation, shall wilfully and corruptly give false evidence before any

any such jury, shall be liable to the pains and penalties to which persons guilty of wilful and corrupt perjury are liable.

19. Expenses of jury how to be paid.

And be it Enacted, That in every case in which the verdict of a jury summoned as aforesaid shall be given for a greater sum than shall have been offered by the council for the purchase of any land, or as compensation for any damage, the costs, charges and expenses of such jury, and of taking the inquisition and obtaining the verdict and judgment thereon, or in anywise incident thereto, and of summoning and of the attendance of witnesses, and of the bond to be given by the party requiring such jury to be summoned as hereinafter mentioned, shall be defrayed by the council, and such costs, charges and expenses shall be settled and determined by an officer of the court; and in case such costs, charges and expenses shall not be paid to the party entitled to receive the same within Ten Days after the same shall have been demanded, then the same shall be levied and recovered by distress and sale of any goods and chattels of the Mayor, Aldermen and Burgesses, or of their Treasurer for the time being, under a warrant to be issued for that purpose by any Justice of the Peace having jurisdiction within the said borough, not interested in the matter in question; but if the verdict of the jury shall be given for the same or a less sum than shall have been offered by the Mayor, Aldermen and Burgesses, the said costs, charges and expenses shall be defrayed by the party with whom the Mayor, Aldermen and Burgesses shall have such dispute, and, having been settled in manner hereinbefore mentioned, be deducted out of the money adjudged to be paid to such other party as so much money advanced for his use: Provided always, That in cases in which, by reason of absence beyond the seas, or from any other disability not herein provided for, any person shall have been prevented from agreeing as aforesaid, the whole of such costs, charges and expenses shall be paid by the Mayor, Aldermen and Burgesses.

20. Persons requiring juries to enter into bonds to prosecute their complaints, and to pay expenses.

And be it Enacted, That all parties with whom the Mayor, Aldermen and Burgesses shall have any such dispute, and who shall require a jury to be summoned as aforesaid, shall, before the council shall be obliged to issue their warrant for the summoning of such jury, enter into a bond to the Mayor, Aldermen and Burgesses, in a penalty of One hundred Pounds, to prosecute their complaint, and to bear and pay the costs and expenses of summoning and returning such jury, and taking such verdict, and of the summoning and attendances of witnesses, which shall fall upon them.

21. Notice of inquiry to be given to the Mayor, Aldermen and Burgesses before complaint.

And be it Enacted, That the council shall not be bound, nor shall any jury to be summoned by virtue of this Act be allowed without the consent of the council, to take notice of any complaint to be made by any party for any damage by him sustained in consequence of

of the execution of this Act, unless notice in writing by or on behalf of the person making such complaint, stating the particulars of such damage, and the amount of the compensation claimed in respect thereof, shall have been given by such person to the Mayor, Aldermen and Burgesses Ten Days before the summoning of such jury, and within the space of Twelve calendar Months after the time of such supposed damage having been sustained, or after the doing thereof shall have ceased.

22. Tenants at will, &c. to quit lands after notice.

And be it Enacted, That all persons in possession of any lands which the Mayor, Aldermen and Burgesses are empowered to purchase without the consent of the persons interested therein, and which shall be required for the purposes of this Act, and who shall have no greater interest than as tenants at will, or lessees for a year, or as tenants from year to year, shall deliver up possession thereof to the Mayor, Aldermen and Burgesses, or to such person as the council shall appoint to take possession of the same, at the expiration of Six calendar Months next after notice to that effect shall have been given by the Mayor, Aldermen and Burgesses to or left at the place of abode of such respective tenants or lessees in possession, or left upon the said premises; and in case any person so in possession shall refuse to give up possession as aforesaid, it shall be lawful for any Two Justices of the Peace having jurisdiction in the borough, and not interested in the matter, to issue their warrant to any constable of the said borough to deliver possession of the said premises to such person as shall in such warrant be nominated to receive the same on behalf of the Mayor, Aldermen and Burgesses; and such constable shall deliver possession of the said premises accordingly, and shall levy and satisfy such costs as shall accrue by reason of the issuing and execution of such warrant, by distress and sale of the goods and chattels of the person so refusing.

23. Interest of such tenants may be settled by a jury.

Provided always, and be it Enacted, That where any such tenant or lessee as shall be required to deliver up possession of any premises so occupied by him before the expiration of his term or interest therein shall give to the Mayor, Aldermen and Burgesses previous notice in writing thereof, the council shall make or tender to such tenant or lessee, before they shall issue such precept to the bailiff, sub-bailiff or constable, compensation for the value of his unexpired term of interest in the said premises, and for any damage to be sustained by him; which compensation, in the case of difference, shall be settled in the same manner as any other compensation for any land purchased by the said Mayor, Aldermen and Burgesses is by this Act directed to be settled.

24. Compensation for goodwill.

And be it Enacted, That compensation by payment of a sum of money in gross shall be made by the said Mayor, Aldermen and Burgesses

Burgesses to every person interested, in respect of goodwill, loss of trade, and improvements in any shops, inns, taverns or retail warehouses which are authorized by this Act to be taken without the consent of the persons interested therein, for any damage whatsoever to be sustained by them by reason of the execution of any power hereby given, whereby his business shall be injured, and for the reasonable expenses of removal, where removal may be necessary, (whether such person shall be the owner or not,) and to all occupiers of such shops, inns, taverns or retail warehouses as aforesaid who shall not claim compensation in respect of loss of profits, and to all occupiers of any lands authorized by this Act to be taken without the consent of the persons interested therein, not consisting of shops, inns, taverns or retail warehouses, compensation for all reasonable expenses of removal, where removal may be necessary; and in case of any difference concerning the same, then such compensation shall be ascertained by a jury, in like manner as the value of any lands is by this Act directed to be settled, and the amount of such compensation shall be paid by the Mayor, Aldermen and Burgesses to such person before taking possession of the said premises.

25. When any land is unoccupied, notice to be given to the owner.

And be it Enacted, That where any land which shall be wanted for the purposes of this Act shall be unoccupied, notice in writing shall be given by the said council, or by some person authorized by them, to the owner of such land, or left at his place of abode, or left on some part of the said land, that the same will be wanted for the purposes of this Act; and such notice, so given or left, shall be binding upon every person who shall thereafter become the tenant or occupier of any such land; and the person so becoming tenant or occupier shall, after the expiration of Six calendar Months after such notice shall have been given or left as aforesaid, be liable to be removed from the possession of such land, without payment of any sum for any claim of right or interest therein.

26. Persons holding under leases to produce them.

And be it Enacted, That in all cases in which any person shall claim any compensation for any interest which he shall claim in any land intended to be taken under the authority of this Act, under any lease or agreement for lease, the council may require such person to show the lease or agreement in respect of which such claim shall be made; and if such lease or agreement shall not be shown within Twenty-one Days after demand, by the Town Clerk of the said borough, or by any person by him authorized, the person claiming such compensation shall be treated as a tenant holding only from year to year, except in cases where such lease or agreement shall have been lost or mislaid, or is not in the custody or possession of such person.

27. For settling disputes as to damages to a small amount.

And be it Enacted, That in case any difference shall arise between the Mayor, Aldermen and Burgesses, and any owner or occupier of any

any land authorized to be taken or damaged for the purposes of this Act, as to the amount of the value of the damage done by the Mayor, Aldermen and Burgesses, their agents or workmen, to such property, in the execution of any of the powers of this Act, and such difference cannot be settled between the parties, the same shall, in case the amount of damage claimed does not exceed the sum of Fifty Pounds, be settled by Two or more Justices of the Peace having jurisdiction in the borough, not being members of the council, and not being interested in the question; and where there shall be no such Justices resident within the borough, then by Two or more Justices of the Peace for the county in which the borough is locally situate, or in the case of boroughs which are counties of themselves, to which it is adjacent; but, in either case, after having fully heard the parties in difference, or their respective agents, and after having received the evidence upon oath of such witnesses as shall be tendered on either side (which oath such Justices are hereby empowered to administer).

28. Application of compensation-money amounting to 200*l.*

And be it Enacted, That if any money shall be agreed or awarded to be paid for the purchase of any land to be taken under this Act, or of any interest therein, or for the release of any such land from any rent or any incumbrance charged thereon, or for any compensation under this Act, which any corporation, tenant in tail or for life, husband, guardian, trustee, or feoffee in trust, committee, executor, or administrator, feme covert, or any trustee whatsoever for or on behalf of any wife, ward, lunatic, idiot or of any other cestuique trust whatsoever, or any person whomsoever, whose land is in settlement, or any person under any other disability or incapacity, shall be entitled unto, interested in, or hereby capacitated to convey, such money shall, in case the same shall, after the deduction of costs hereinbefore authorized (if any be payable), amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Exchequer in England, and of the Court of Chancery in Ireland, to be placed to his account there *ex parte* the Mayor, Aldermen and Burgesses of the said borough, pursuant, in England, to the method prescribed by an Act passed in the first year of the reign of his late Majesty King GEORGE the Fourth, intituled "An Act for better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant-general and Two Masters of the said Court, and for other Purposes," and the general orders of the said Court of Exchequer, and in Ireland, pursuant to the general orders of the said Court of Chancery, and in either case without fee or reward; and shall, when so paid in, there remain until the same shall, by order of the said court made in a summary way upon petition to be presented

1 G. 4, c. 35.

presented to the said court by the party who would have been entitled to the rents and profits of the said land, be applied either in the purchase or redemption of the land tax, or in or towards the discharge of any debt or such other incumbrance affecting the said land, or any part thereof, or affecting other land standing settled therewith to the same or the like uses, trusts, intents or purposes, as the said court shall authorize to be paid, or such part thereof respectively as shall be directed by the said court; or until the same shall, upon like application, be laid out, by order of the said court made in a summary way as aforesaid, in the purchase of other land, which shall be settled upon such and the like uses and trusts, and in the same manner as the land which shall be so taken, or in respect of which such compensation shall be paid, or such of them as at the time of making such settlement shall be capable of taking effect; and until such purchase can be made, the said money shall, by order of the said court upon application thereto, be invested by the said Accountant-general in his name in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum Reduced Bank Annuities, or in Government or Real Securities, as the said court shall direct; and in the meantime, and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in or cancelled, the dividends or interest and annual produce thereof shall from time to time, by order of the said court, be paid to the party who would for the time being have been entitled to the rents and profits of such land.

29. When less than 200*l.* and exceeding 20*l.*

And be it Enacted, That if any money agreed or awarded to be paid as last hereinbefore mentioned shall, after the deduction of such costs as aforesaid, be less than the sum of Two hundred Pounds, and shall exceed the sum of Twenty Pounds, then the same shall, at the option of the person for the time being entitled to the rents and profits of the land so taken, or other the interest purchased by the Mayor, Aldermen and Burgesses, or of the respective husband, guardian or committee of any such person, in case of coverture, infancy, idiocy, lunacy or other incapacity, with the approbation of the council, signified in writing under the common seal of the Mayor, Aldermen and Burgesses, be paid into the Bank of England or Ireland in the name and with the privity of the said Accountant-general, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed; or otherwise the same may be paid, at the like option and with the like approbation, to Two Trustees to be nominated by the respective parties exercising such option, such nomination to be approved of by the said council, and such nomination and approbation to be signified in writing under the common seal of the Mayor, Aldermen and Burgesses; and the money so paid to such trustees, and the dividends and produce so arising thereon and therefrom,

from, shall be by such trustees applied in like manner as is hereinbefore directed with respect to the money to be so paid into the Bank of England or Ireland.

30. When not exceeding 20*l.*

And be it Enacted, That when any money so agreed or awarded to be paid as last hereinbefore mentioned shall not (after deducting such costs as aforesaid) exceed the sum of Twenty Pounds, the same shall be applied to the respective parties who would for the time being have been entitled to the rents and profits of the land so taken and used for the purposes of this Act, or in respect of which compensation shall be paid, for their own use and benefit; or in case of coverture, infancy, idiocy, lunacy or other incapacity, then such money shall be paid for their use to their respective husbands, guardians, committees or trustees.

31. In case of not making out titles, &c. the money to be paid into the Bank.

And be it Enacted, That in case any party to whom any money shall be agreed or awarded to be paid for the purchase of any land to be taken or used under or by virtue of the powers of this Act, or for any interest therein, or for such compensation as aforesaid, shall refuse to accept the same, or to convey the premises or interest in the premises purchased, or shall refuse, neglect or be unable to make a title to such premises, or to such interest in the premises, to the satisfaction of the said council, or shall be absent beyond the seas, or shall not be found, or if any party entitled unto or to convey such land or such interest therein cannot be known or discovered, or be not shown to the satisfaction of the said council to be such party, then and in every such case it shall be lawful for the said council to order the money so agreed or awarded as aforesaid, after such deduction of costs as aforesaid, to be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Exchequer or Chancery, to be placed to his account to the credit of the parties interested in the said lands, (describing them, so far as the council can do,) subject to the control and disposition of the said court; which said court, on the application of any party making claim to such money, or any part thereof, by petition, shall, in a summary way of proceeding or otherwise, order the same to be laid out and invested in the public funds, and order distribution thereof or payment of the dividends thereof, according to the estate, title or interest of the party making claim thereunto, and may make such other order in the premises as to the said court shall seem proper; and the Cashier of the Bank of England or Ireland who shall receive such money shall give to the Mayor, Aldermen and Burgesses a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same is received.

Provided

32. Persons in possession presumptively entitled.

Provided always, and be it Enacted, That where any question shall arise touching the title of any party to any tenements, or any interest therein, or to any money to be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Exchequer or Chancery, in pursuance of this Act, the parties in possession or receipt of the rents or profits of such tenements at the time of the purchase thereof, and all persons claiming under such parties, or consistently with the possession or receipt of rents or profits by such parties, shall be deemed to have been lawfully entitled thereunto until the contrary shall be shown to the satisfaction of the court.

33. Power for Court of Exchequer or of Chancery to order compensation.

And be it Enacted, That where any money agreed or awarded to be paid for the purchase of any lands taken under the powers of this Act, or for any compensation, shall have been paid into the Bank of England or Ireland pursuant to the directions contained in this Act, it shall be lawful for the said Court of Exchequer or Chancery, upon petition for that purpose by the party who would have been entitled to or in the receipt of the rents and profits of the lands in respect of which such money shall have been so paid in, from time to time to order such part of the said purchase or compensation monies as the said court shall think fit to be laid out and applied in the repairing or the rebuilding of any houses or other buildings taken down or injured in the construction of the works hereby authorized, in such manner as to the said court shall seem fit.

34. Court may order expenses of purchases to be defrayed by the Mayor, Aldermen and Burgesses.

And be it Enacted, That where, by reason of the disability or incapacity of any person entitled to any land to be taken or used for the purposes of this Act, or from any other cause whatsoever, the purchase-money for such land, or any money to be paid for or by way of compensation for damage done to the same, shall be required to be paid into the Bank of England or Ireland, and be subject to the orders of the Court of Exchequer or Chancery, under the provisions contained in this Act, it shall be lawful for the said court to order all the reasonable expenses attending such purchase, or which may be incurred in consequence thereof, and also of the investment of the purchase or compensation money paid in respect of such land, in real or Government securities, and likewise the re-investment of such purchase or compensation money, or the Government or real securities purchased therewith, in the purchase of land as hereinbefore mentioned, together with the expenses of obtaining the proper orders, and of the other proceedings for such purposes, and of the payment of the dividends and interest of the said Government or real securities, and of the payment of the principal of the said purchase or compensation money, and of the Government or real securities purchased therewith, out of court, to be paid by the Mayor, Aldermen and Burgesses, and

the Mayor, Aldermen and Burgesses shall from time to time pay such sums of money for the said expenses as the said Court shall direct.

35. Costs of conveyances of lands, &c. to be paid by the Mayor, Aldermen and Burgesses.

And be it Enacted, That all the expenses, on the part as well of the seller as the purchaser, of all conveyances and assurances of any land which shall be purchased or taken by the Mayor, Aldermen and Burgesses for the purposes of this Act, and of verifying such title as the said council may require to the said land, and of making out and furnishing such abstract, and such attested copies as the said council may require, and all expenses whatsoever incident to the verification of such title, shall be exclusively borne and paid by the Mayor, Aldermen and Burgesses; and the Mayor, Aldermen and Burgesses, before entering into the land so purchased or taken, shall pay the amount of such expenses: Provided always, That the Mayor, Aldermen and Burgesses shall not be prevented from entering into possession of the land so purchased by reason of the non-payment of the said expenses, unless the party from whom such land shall have been purchased shall, within Seven Days after such notice in writing for that purpose shall have been given to him by the Mayor, Aldermen and Burgesses, deliver a bill of his said expenses to the Mayor, Aldermen and Burgesses.

36. How such costs are to be ascertained.

And be it Enacted, That if the council and the party aforesaid cannot agree as to the amount of such costs, charges and expenses, the same shall be ascertained by the said Court of Exchequer or Chancery, and it shall be lawful for the said court, on petition to be presented by the Mayor, Aldermen and Burgesses, to order and direct that such expenses shall be referred to one of the Masters of the said court to be taxed in the usual manner, and such order shall be served on the party aforesaid, who shall be at liberty to proceed under the same; and after taxation thereof it shall be lawful for the said court to order and direct the amount of such expenses so taxed, together with the expenses attending the taxation thereof, or so much of the same as shall be payable by the Mayor, Aldermen and Burgesses, to the person from whom such land shall have been purchased or taken, to be paid to such person; and the expense of determining such costs, charges and expenses as aforesaid, and of obtaining the order referring, shall be paid and borne by the Mayor, Aldermen and Burgesses, unless One-sixth of the expenses shall be disallowed, in which case the said expenses shall be paid and borne by the person or corporation from whom the said land was purchased or taken, and the amount thereof may be paid to the Mayor, Aldermen and Burgesses out of the said sums deposited by them as aforesaid.

37. Corporation not to enter into possession until

Provided always, and be it Enacted, That the Mayor, Aldermen and Burgesses shall not be at liberty to enter into possession of the land

land so taken until an order shall have been made for the taxation of the said expenses, and shall have been served on the party aforesaid, and the Mayor, Aldermen and Burgesses shall have deposited the amount claimed for such expenses in the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the said Court of Exchequer in England, or in Ireland of the Court of Chancery, to be placed to his account *ex parte* the Mayor, Aldermen and Burgesses of the said borough, pursuant, in England, to the method prescribed by the Act passed in the first year of the reign of King George the Fourth, "For the better securing Monies and Effects paid into the Court of Exchequer at Westminster on the account of the Suitors of the said Court, for the Appointment of an Accountant-general and Two Masters of the said Court, and for other Purposes," and in Ireland pursuant to the orders of the Court of Chancery; which sums shall be applied, under the order of the said court, in payment of the said expenses.

order for taxation of expenses made, and the amount deposited in the Bank.

38. And be it Enacted, That upon payment of such sum as shall have been agreed upon between the parties, or awarded by a jury in manner aforesaid, for the purchase of any land, or as a compensation for any damage as aforesaid to the respective proprietors of such land, or other persons interested therein, within Thirty Days after the same shall have been so agreed upon or awarded, or at any time after the expiration of the said Thirty Days, where the delay in making such payment shall have arisen from any act, neglect or default of the person entitled to such money, or if the persons so respectively interested and entitled as aforesaid cannot be found, or shall be beyond the seas, or shall refuse to receive such money as aforesaid, or shall refuse, neglect or be unable to make a good title to such land to the satisfaction of the council, or if any party entitled unto or to convey such land shall not be known, or shall be beyond the seas, or shall refuse, neglect, or be unable to convey the same, then, upon payment of such money into the Bank of England or Ireland as herein directed, it shall be lawful for the Mayor, Aldermen and Burgesses to enter upon such land, and thereupon such land and the fee-simple and inheritance thereof, together with the yearly profits thereof, and all the estate, use, trust and interest of all parties therein in respect of whose interests such money shall have been paid, shall thenceforth be vested in and become the sole property of the Mayor, Aldermen and Burgesses for the purposes of this Act; and such payment or tender and conveyance, or such deposit in the Bank of England or Ireland as aforesaid, shall operate to merge all outstanding or other terms of years, and to bar and destroy all dower, and all estates tail, and other estates in reversion or remainder, and all such rights, titles, limitations and trusts as aforesaid, of and in the said land, except so far as any out-

Power to enter lands, &c. on payment or tender of purchase-money.

standing estate may strengthen and protect the title of the Mayor, Aldermen and Burgesses.

39. No person compellable to sell part of his house if willing to sell the whole.

Provided always, and be it Enacted, That if any person by this Act authorized to convey any land shall be applied to, on behalf of the said Mayor, Aldermen and Burgesses, to treat for any part of any house, shop, warehouse, building or manufactory in the actual occupation of one person, or of several persons jointly, and shall by notice in writing, to be left with the Town Clerk of the said borough within Twenty-one Days after such application, signify his desire to treat for the whole of such house, shop, warehouse, building or manufactory; and if the council shall not be willing to purchase the whole of such house, shop, warehouse, building or manufactory, then nothing in this Act contained shall extend to compel such person to convey, or to authorize the said Mayor, Aldermen and Burgesses to take part only or less than the whole of such house, shop, warehouse, building or manufactory.

40. Council empowered to enter lands and execute works.

And be it Enacted, That, for the purpose of effecting the purposes of this Act, the council, their agents, servants, surveyors and workmen, shall be empowered, subject to the provisions of this Act, to enter into and upon any lands, and to survey and admeasure the same, and to set out such part thereof as they shall think necessary for effecting the purposes aforesaid, and to take, carry away, and use any earth, clay, stone, soil, rubbish, gravel or sand, or any other materials which may seem necessary or proper in effecting the said purposes, to the intent and meaning of this Act; and also from time to time to execute such works, and also to lay and work the materials necessary for effecting the said purposes on the land adjoining to the place where the said works or any of them shall be intended to be made; and also, under the direction of the Commissioners of Sewers, if any in such borough, to make drains or conduits into, through or under any land in or near the said streets, for the purpose of conveying water from or to the same, or any part thereof, and to do all other things fit or necessary for effecting the purposes of this Act; they the said council, and their agents, servants and workmen, doing as little damage as may be in the execution of the several powers to them hereby granted, and making full satisfaction, in manner herein mentioned, to all persons interested in any lands which shall be taken, used or injured, for all damages to be by them sustained in the execution of this Act.

41. Plaintiff not to recover without notice, &c.

And be it Enacted, That no plaintiff shall recover in any action to be commenced against any person for any thing done in pursuance of this Act, unless notice in writing of such action shall have been given

given to the defendant, or left at his last or usual place of abode, Twenty-one Days before such action shall be commenced, signed by the attorney for the plaintiff, specifying the cause of the action, nor shall the plaintiff recover if tender of good and sufficient amends shall have been made to him or his attorney by or on behalf of the defendant before such action brought, or after such action brought, if made with tender of costs of suit to the time of such tender, but on proof thereof the plaintiff shall be nonsuited, and shall pay full costs, to be recovered in the same manner as any defendant may recover costs in any other case by law; or in case no tender shall have been made, it shall be lawful for the defendant, by leave of the court, at any time before issue joined, to pay into court such sum of money as he shall see fit, whereupon such proceedings, order and judgment shall be had, made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

42. Limitation of Actions.

And be it Enacted, That every action or suit which shall be brought or prosecuted against any person for any thing done in pursuance of this Act, shall be brought within Three calendar Months next after the fact committed, or in case there shall be a continuation of damages, then within Three calendar Months next after the doing such damages shall have ceased, and not afterwards; and every such action and suit shall be laid and brought in the liberty or county where the matter in dispute shall arise, and not elsewhere; and if any such action or suit shall have been brought after the expiration of the said Three calendar Months, or in any other county or place than as aforesaid, the jury shall find for the defendant.

43. Validity or invalidity of Bolton Charter not to be affected.

AND whereas questions are now pending touching the validity of the charter of incorporation granted by Her Majesty, in the year One thousand eight hundred and Thirty-eight, upon the petition of certain of the inhabitants of Bolton, in the county of Lancaster, and touching the validity of the said petition; BE it therefore Enacted, That nothing in this Act contained shall be deemed to confirm or affect the said charter and petition, or either of them, or any Act done or to be done in pursuance thereof, but that all questions touching the validity or invalidity of the said charter and petition, or either of them, shall remain and be dealt with as if this Act had not passed.

44. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, c. 19, for im-

Provided always, and be it Enacted, That the powers herein given to the councils of boroughs shall be exercised, in the city of Oxford, by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious

proving the City of Oxford.

commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes, and Places within the said University and City, and the Suburbs thereof, and the said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other Purposes:" Provided also, That nothing in this Act contained shall empower the said Commissioners, or the Council of the borough of Cambridge respectively, to take any lands belonging to the University of Oxford or Cambridge respectively, or to any college or hall of either of the said Universities, or in any manner to interfere with any lands or tenements belonging to either of the said Universities, or to any of the said colleges or halls, without the consent of the Chancellor, Masters, and Scholars of the University in which such lands and tenements are situated, and also the consent of the governing body of the college or hall to which such lands or tenements belong.

45. Powers of the Act to be exercised in Nechells and Duddeston by the Commissioners for lighting and watching.

Provided also, and be it Enacted, That notwithstanding anything in this Act contained, the powers conferred by this Act upon and to be exercised by the several boroughs to which this Act applies, shall so far as respects the hamlets or liberties of Duddeston and Nechells, in the parish of Aston, and situate within the borough of Birmingham, be vested in the Commissioners appointed under an Act of the tenth year of his Majesty King GEORGE the Fourth, intituled, "An Act for lighting, watching, cleansing, and otherwise improving and regulating the Hamlets or Liberties of Duddeston and Nechells, in the Parish of Aston, near Birmingham, in the County of Warwick."

46. In whom powers shall vest in Birmingham.

Provided always, and be it Enacted, That the powers conferred by this Act upon and to be exercised by the Councils of the several boroughs to which this Act applies, in the borough of Birmingham, shall be vested solely in the Commissioners appointed under an Act of the ninth year of his Majesty King GEORGE the Fourth, intituled, "An Act for better paving, lighting, watching, cleansing, and otherwise improving the Town of Birmingham, in the County of Warwick, and for regulating the Police and Markets of the said Town."

9 G. 4, c. 54.

47. Act may be amended, &c

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

(No. 2.)

25 *February* 1842.—5 Vict.

A

B I L L

For the Improvement of certain Boroughs.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it will be much for the benefit of the inhabitants of many Borough Towns if power be given for opening and widening the close and narrow streets, alleys, passages and places therein, and for otherwise improving the Town; and it is expedient that such powers be vested in the Councils of such Boroughs, under the restrictions hereinafter contained; BE it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in this Act the word "Council" shall be taken to mean the Council of the Mayor, Aldermen and Burgesses of every borough which is within the provisions of an Act passed in the sixth year of the reign of his late Majesty, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," or of any charter granted in pursuance of that or any subsequent Act, and of every borough which is within the provisions of an Act passed in the fourth year of the reign of Her Majesty, intituled, "An Act for the Regulation of Municipal Corporations in Ireland;" and that where power is hereinafter given to the council to do any act, it shall be understood to mean that the council is empowered to do such act in the name and on behalf of the Mayor, Aldermen and Burgesses whose council they are; and that the word "Lands" shall be understood to mean messuages, lands and tenements; and that any word denoting the singular number or masculine gender shall be understood to mean any number of persons, and females as well as males; and that the word "Person" shall be understood to mean also a body

Preamble.

1. Meaning of the words "Council" and "Lands."

5 & 6 W. 4, c. 76.

3 & 4 Vict. c. 108.

body corporate; unless in any case there shall be some positive enactment to the contrary, or something in the context inconsistent with such meaning.

2. Council may contract with owners for purchase of land.

And be it Enacted, That for the purpose of opening, widening or otherwise improving any street or place within the borough, and for any of the purposes of this Act, the council shall have power to agree with the owners of any lands in or near the streets and places which the council shall deem expedient to be taken for opening, widening or improving the said streets or places, or for any other purpose of this Act, either for the absolute purchase thereof, or of any part thereof, or for any damage thereunto to be sustained by any person interested therein in effecting such improvements, or otherwise in the execution of this Act, and to agree with every such person for the removal of any projections, encroachments or other obstructions, and to take down or alter all or any of the messuages and tenements so purchased, or any part thereof, or which may be part of the estate of the Mayor, Aldermen and Burgesses of the borough, and to lay the sites thereof, or any part thereof, or any land which may be cleared by the taking down of any such messuages and tenements, into the streets, or build other messuages and tenements upon so much of the land as will not be required for the streets, or otherwise appropriate the same for the improvement of the town and borough, as the council shall think fit; and any such sites or lands which shall be laid into the said streets or places shall thereafter form part thereof, and of the public highways, and shall be maintained and repaired in the same manner as the other part of such streets or places; and such part of any of the said streets or places as in consequence of the said improvements may not be longer wanted for such streets and places shall remain, freed and discharged from the public use thereof, vested in the parties who are now by law entitled thereto, subject nevertheless to the right of any commissioners for paving any of the said streets or places, at any time within *One calendar Month* after notice in writing given to them by the council to remove and take away any pavement or flagging thereupon belonging to the said commissioners.

3. Names of streets and numbers of houses to be put up.

And be it Enacted, That the council may from time to time, as they shall think fit, cause to be painted, engraved or otherwise described, and placed on a conspicuous part of any one or more of the houses or buildings at or near each end, corner or entrance of any road, street, square, way, lane or other public passage or place within the said borough, the name by which such road, street, square, way, lane or other public passage or place now is or shall be called or known, and may also from time to time, and when they shall think fit, cause every house, shop and building in the several roads, streets, squares,

squares, ways, lanes and other public passages and places in the said borough to be marked and numbered with figures, either on the door thereof or otherwise, and in such manner as they shall think fit for distinguishing the same; and every person who shall wilfully destroy, obliterate, deface or (without the consent of the said council first obtained) remove or alter any such name, number or figure, or any part thereof, or cause or procure the same to be so done, shall for every such offence forfeit and pay a sum not more than *Ten Shillings*.

4. Compulsory powers.

And be it Enacted, That in any of the following cases the council shall be empowered, if they think fit, to take any lands which they shall require for the purposes of this Act, with or without the consent of the several owners and other persons interested therein, subject nevertheless to the provisions for ascertaining and giving compensation for the value of such lands, and for the other purposes hereinafter contained; (that is to say)

1. When any such lands are needed for the purpose of opening a thoroughfare through any court or alley which is closed at either end:
2. When any such lands are needed for the purpose of widening any thoroughfare which is narrower than *Twenty* Feet:
3. When any such lands project *Ten* Feet or more beyond the general line of the street:
4. When the council shall have agreed with the owners thereof for the absolute purchase of the lands on each side of the lands so required to be taken, the value of those already agreed for being at least *Ten* times the value of those not agreed for:
5. When any such messuages or tenements built before the passing of this Act are contrary to the provisions of an Act passed in this Session of Parliament, intituled, "An Act for regulating Buildings in large Towns," and are not amended according to the provisions of the said Act, within *Six* calendar Months after notice thereof given by the council to the owner or occupier thereof:

Provided always, That it shall not be lawful for the council to take any such messuages, lands or tenements, without the consent of the owners and other persons interested therein, unless with the approval of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings.

5. Plan and Book of Reference to be prepared.

And be it Enacted, That in all cases where it is intended to apply to the Commissioners of Her Majesty's Woods and Forests, Land Revenues, Works and Buildings for their approval, to authorize the Mayor, Aldermen and Burgesses to take any lands for the purposes

of this Act without the consent of the persons interested therein, notice of such intention shall be given to the owner or occupier of such lands, or affixed thereunto, and shall also be published in some newspapers circulating within the borough in *Three* successive Weeks, the last of which publications shall be at least *One calendar Month* before such application shall be made, and that a Plan, on a scale not less than One Inch to *Fifty* Feet, shall be prepared in duplicate, showing the line or situation of the intended work, and the lands through which it is to be carried or made, with a Book of Reference, also in duplicate, containing the name of the owners or reputed owners, lessees or reputed lessees, and occupiers thereof respectively; and One Copy of such Plan shall be deposited in the office of the Town Clerk, on or before the first publication of the notice in the newspaper, and shall be open during *Two* calendar Months, at all reasonable times there, to the inspection of all persons interested therein, and the other Copy of such Plan and Book of Reference shall be sent to the Commissioners of Her Majesty's Woods and Forests, Land Revenues, Works and Buildings, when application shall be made for their approval of such work.

6. Inquiry by Commissioners of Woods and Forests.

And be it Enacted, That upon any such application made to them by the Mayor, Aldermen and Burgesses of any borough, and upon such proof as is satisfactory to the said Commissioners that the notices have been duly given, and the plan and book of reference duly made and deposited as aforesaid, the said Commissioners shall be empowered to inquire whether or not the intended work is of such public usefulness to the town, and the inhabitants thereof, that they ought to sanction the taking of the lands so required to be taken without the consent of the persons interested therein, and shall direct a person of competent skill to view the lands required to be taken, who shall give *One Week*'s notice of the time when he will attend for the purpose of viewing the same, and of inquiring into the matter, (such notice to be published within the borough in such manner as the said Commissioners shall direct,) and for that purpose shall hold a public inquiry within the borough at a time and place to be named in the notice; and all persons who shall deem themselves interested therein or likely to be aggrieved thereby shall be entitled to be heard, by themselves, their counsel, attornies, agents and witnesses, before such person, and such person shall report the evidence taken before him, and his opinion thereon, to the said Commissioners; and thereupon it shall be lawful for the Commissioners, if they shall think fit, to approve the taking of the lands required to be taken without the consent of the persons interested therein: Provided always, That in every such case the Mayor, Aldermen and Burgesses shall enter into a recognizance to Her Majesty, Her heirs and successors, in such sum as the said Commissioners shall think reasonable, to complete

plete the work within such reasonable time as shall be therein named, for which such lands are required to be taken, as shown in the plan, or not deviating more than *Ten* Feet from the line shown in the plan without the consent of the said Commissioners; and a certificate of the completion of any such work under the common seal of the Mayor, Aldermen and Burgesses, and under the hand of the Mayor for the time being, shall be sent to the said Commissioners within the time allowed for completion of the work, otherwise the said recognizance shall be taken to be forfeited.

7. Expenses of Inquiry, how paid.

And be it Enacted, That the person appointed to make such inquiry shall be entitled to have such sum as shall be allowed to him by the said Commissioners, not being in any case more than the sum of *Five Guineas* for every day of the inquiry, besides his travelling expenses; and that all expenses of making the said inquiry, except those incurred by any party opposing the work, shall be defrayed by the Mayor, Aldermen and Burgesses, out of the Borough Fund.

8. Persons under legal disability empowered to sell and convey lands.

And be it Enacted, That it shall be lawful for every tenant in tail or for life, or for any other partial or qualified estate or interest, husband, guardian, trustee and feoffee in trust for charitable or other purposes, committee, executor, administrator, and every trustee, and every other person and corporation whomsoever, not only for and on behalf of themselves, their heirs or successors, but also for and on behalf of all persons entitled in reversion, remainder or expectancy after them, if incapacitated or not to be found, and for and on behalf of their wives, wards, lunatics and idiots respectively, and in the same manner and to the same extent as such wives, wards, lunatics and idiots respectively could have done by law under the powers of this Act in case they had been sole, of full age, and of sound mind, and for and on behalf of every cestuique trust, whether infants, issue unborn, lunatics, idiots, femes covert, or other persons, and for every feme covert seised, possessed of, or interested in her own right, or entitled to dower or other interest therein, and for every other person or corporation seised or possessed of or interested in any such land, to contract for, sell and convey the same, or any part thereof, or any estate or interest therein, unto the Mayor, Aldermen and Burgesses of such borough.

9. Form of Conveyance to the Mayor, Aldermen and Burgesses.

And be it Enacted, That all such contracts, sales and conveyances may be according to the following Form, or as near thereto as the number of the parties and the circumstances of the case will reasonably admit; (that is to say)

"I [or we] of in consideration of the Sum of to me [or us, or into the Bank of England (or

(or Ireland), and with the privity of the Accountant-General of the Court of (Chancery), ex parte the Mayor, Aldermen and Burgesses of the Borough of or to A. B. of and C. D. of their heirs and assigns, Two Trustees appointed to receive the same, as the case may be,] paid by the Mayor, Aldermen and Burgesses of the Borough of acting under an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA, intituled [here set forth the Title of this Act], Do hereby convey to the said Mayor, Aldermen and Burgesses, their successors and assigns, all [describing the premises to be conveyed], together with all ways, rights and appurtenances thereunto belonging, and all such estate, right, title and interest in and to the same and every part thereof, as I am [or we are] or shall become seised or possessed of, or am [or are] by the said Act enabled or empowered to convey or surrender; to hold the premises to the said Mayor, Aldermen and Burgesses, their successors or assigns, for ever, according to the true intent and meaning of the said Act. In witness whereof I [or we] have hereunto set my hand and seal [or our hands and seals] the day of in the year of our Lord : "

And all such conveyances shall, without enrolment, be valid and effectual to all intents and purposes, not only to convey the estate and interest of the party conveying, but also to convey all the right, estate and interest, use, trust, property, possession, claim and demand whatsoever of every cestuique trust, and all persons whomsoever claiming or having title to claim by, from, through, under, or after every person executing such conveyance, and of all persons and corporations entitled in remainder or reversion expectant on any particular estate; and the same shall merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby convened or aliened, and shall bar and destroy the dower of the wife of every party conveying, and all estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts and interests whatsoever of and in the same.

10. Power to purchase the release of land wanted from rents charged thereon.

And be it Enacted, That where any land purchased or intended to be purchased by the council under this Act shall be subject, solely or jointly with other land not intended to be purchased, to any rent, payment or incumbrance, it shall be lawful for the council to agree, in consideration of a sum of money in gross to be paid by the Mayor, Aldermen and Burgesses, for the release of the lands so purchased or intended to be purchased from such rent, payment or incumbrance, and also, where necessary or convenient, for an apportionment

tionment of such rent, payment or incumbrance, for such sum as shall be agreed upon between the council and the party who under the provisions of this Act shall agree to sell or apportion the same, and which agreement may be entered into by every person by this Act empowered to sell or convey land; and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a jury, if required, in like manner as the price of land is by this Act directed to be settled in case of dispute as to the value thereof, which jury shall assess and determine the value of the rent, payment or incumbrance affecting the land purchased, or wanted or intended to be purchased, and shall also (where necessary) apportion the rent, payment or incumbrance affecting the land jointly subject to the rent, payment or incumbrance as hereinbefore mentioned, according to the respective value of the land purchased or intended to be purchased, and of the land not purchased or not intended to be purchased by the council; and all contracts, conveyances and assurances which shall be made by and between or to the council, or the Mayor, Aldermen and Burgesses of the borough, and any such party as aforesaid, respecting such release (which may be of the like form, or to the like effect, with such changes therein as the case requires, as by this Act is directed to be used in the case of conveyances of land), shall be valid and effectual in the law, and shall extinguish the whole or a proportionate part of such rent, payment or incumbrance, as the case may be: Provided always, That when any land purchased by the council shall be released from any rent, payment or incumbrance affecting the same jointly with other land not so purchased, such last-mentioned land shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the title to the remaining rent, or the remedies for such remainder: Provided always, That no release or apportionment of any rent, payment or incumbrance, when the same shall be settled by agreement between the parties, shall be valid unless the same shall be made with the consent and approbation of the owner or person or corporation entitled to the remainder of the land jointly subject to such rent, payment or incumbrance: Provided also, That when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the council, on tender for that purpose of any deed or instrument creating or transferring such rent, payment or incumbrance, to affix the common seal of the Mayor, Aldermen and Burgesses to a memorandum endorsed on such deed or instrument, declaring what part of the land originally subject to such rent, payment or incumbrance shall have been purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance shall have been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable; and such memorandum

shall be evidence in all courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

11. Rents on leases to be apportioned.

And be it Enacted, That in all cases in which a part only of any land comprised in any lease or agreement for lease for a term of years unexpired shall be required for the purposes of this Act, the rent payable in respect of the land therein comprised shall be apportioned between the land required for the purposes of this Act and the residue of such land; and such apportionment shall, in case the same shall not be settled by agreement between the parties, be settled by the verdict of a jury, if required, in like manner as the price of any land to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and the lessor from whom such land is holden or agreed to be holden may appear and be heard, either in person or by his counsel, before such jury; and no agreement for such apportionment shall be valid without the consent of such lessor; and after such apportionment the tenant or lessee of the land shall, as to all future accruing rent, be liable only to so much of the rent as shall have been apportioned in respect of the land not required for the purposes of this Act, and the lessor shall have the same remedies for the recovery of rents so apportioned, in respect of the land not required for the purposes of this Act, as before such apportionment he had in respect of the whole rent; and the covenants, conditions, and agreements in such lease or agreement for lease contained, so far as the same relate to land not required for the purposes of this Act, but not further or otherwise, shall continue in full force.

12. Upon payment or tender of principal and interest, mortgagees to convey.

And be it Enacted, That every person having any mortgage on any land to be taken for the purposes of this Act (whether entitled thereto in his own right or in trust, and whether in possession under mortgage or not,) shall, on payment or tender by the Mayor, Aldermen and Burgesses, or by any person by them authorized, of the principal money and interest due thereon, and the just costs (if any) then due, alien, release, assign and transfer such mortgaged premises to the Mayor, Aldermen and Burgesses, or to such person and in such manner as they shall appoint; which alienation, release, assignment and transfer may be of the like form as the conveyances by this Act directed to be used in cases of conveyance of land, or as near thereto as the circumstances of the case will permit, or in any other more suitable form; and in case any such mortgagee shall refuse to convey as aforesaid on such tender or payment, then all interest on every such mortgage debt shall thenceforth cease; and upon payment by the council of the principal money and interest, and the costs (if any) due on any such mortgage in England into the Bank of England, and in Ireland into the Bank of Ireland, the cashier of such bank shall give a receipt for the said money, in like manner as is by this Act directed in case of

other

other payments into the said bank; and thereupon all the estate and interest of such mortgagee, and of all persons in trust for him, shall vest in the Mayor, Aldermen and Burgesses: Provided always, That where by the term of any mortgage the mortgagee is entitled to notice before the mortgage debt is to be paid off, the council shall be bound either to give the like notice or to pay into the Bank of England or Ireland, as the case may be, for the use of such mortgagee, besides the other monies, the interest which would have accrued during the time for which such notice was required to be given.

13. Directing in what manner disputes between the Mayor, Aldermen and Burgesses, and certain mortgagees, shall be settled.

And be it Enacted, That in all cases in which the whole or part of any land subject to any mortgage shall be required for the purposes of this Act, which land shall be of less value than the principal money, interest and costs secured thereon, the mortgagee whereof shall not consider the remaining part of such land to be a sufficient security for the money charged thereon, and all interest due or to become due thereon, and all costs, the value of such part of the said land as shall be so required, and also the compensation (if any) for any damage done, shall be settled between such mortgagee and the person entitled to the equity of redemption of such land on the one part, and the Mayor, Aldermen and Burgesses on the other part; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference; and the amount of such value and compensation, being so agreed upon or determined as aforesaid, shall be paid to such mortgagee in satisfaction of his claim, so far as the same shall extend, and such mortgagee shall thereupon alien, release, assign and transfer all his interest in so much of such mortgaged land as shall be required, or in case of his neglecting so to convey, then the amount of such value and compensation shall be paid into the Bank of England, or in Ireland to the Bank of Ireland, to the credit of such mortgagee as is by this Act provided in cases of a like nature; and such payment to the mortgagee, or into the Bank as last aforesaid, shall be in satisfaction of the claim of such mortgagee, so far as the same will extend, and also in full discharge of such part of the mortgaged premises as shall be so taken from all principal and interest, costs and other money due or secured thereon, and thereupon all the estate and interest of such mortgagee in such part of the mortgaged land shall become absolutely vested in the Mayor, Aldermen and Burgesses: Provided nevertheless, That all mortgagees shall have the same powers for compelling payment of their mortgage money, or the residue or interest thereof respectively, as they would otherwise have had out of the whole of the land: Provided also, That when a part only of any land subject to any mortgage shall have been so taken, and the value of the land so taken shall have been paid to the mortgagee, a memorandum of what shall have been so paid shall be endorsed on the deed creating such mortgage, at the time of executing such assignments to

the Mayor, Aldermen and Burgesses, and shall be executed by such mortgagee; and a copy of such memorandum shall at the same time, if required, be furnished by the Mayor, Aldermen and Burgesses, at their expense, to the person entitled to the equity of redemption of the land comprised in such mortgage deed.

14. Parties to deliver a statement of their estates and claims within Two calendar Months after notice.

And be it Enacted, That on or before the expiration of *Two* calendar Months next after notice in writing from the Mayor, Aldermen and Burgesses, or the Town Clerk of the said borough, of their intention to take any land for the purposes of this Act, which under this Act they are empowered to take with or without the consent of the persons interested therein, shall have been given to any person seised, possessed of or interested in the same, or for any damage sustained on account of the execution of this Act, such person shall deliver or cause to be delivered at the office of the Town Clerk a statement in writing of the particulars of the estate and interest which he claims to be entitled to, and of the damage sustained by him, and of the amount of the sum of money which he is willing to receive in satisfaction for the value of such estate and interest and for such damage respectively.

15. In case the parties refuse or are incapable to treat, the value of land and of damages to be settled by a jury.

And be it Enacted, That if any person interested or entitled to any land which, under the provisions herein contained, the Mayor, Aldermen and Burgesses are empowered to take with or without the consent of the parties interested therein, shall not agree with the Mayor, Aldermen and Burgesses as to the amount of such purchase-money or other compensation, or if any of the parties entitled to receive such purchase-money or other compensation shall refuse to accept the same, and shall give notice thereof to the Mayor, Aldermen and Burgesses within *Two* calendar Months next after such offer shall have been made, and the party giving such notice shall therein request that the matter in dispute may be submitted to the determination of a jury, or if any such person shall, for the space of *Two* calendar Months next after notice in writing shall have been given to any such person, or left at his last or usual place of abode, or with the tenant or occupier of any land required for the purposes of this Act, neglect or refuse to treat, or shall not agree with the Mayor, Aldermen and Burgesses for the sale, conveyance or release of his estate or interest, or shall by reason of absence be prevented from treating, or shall by reason of any impediment or disability, whether provided for by this Act or not, be incapable of making such agreement, conveyance or release as shall be necessary or expedient for enabling the Mayor, Aldermen and Burgesses to take such lands or to proceed in the execution of the works hereby authorized, or shall not disclose and prove the state of the title to the premises of which he is in possession, and which he may claim to be entitled to or interested in, or in any other case where agreement for compensation for damages incurred

curred in the execution of this Act, or for the purchase of land required for the purposes of this Act, cannot be made, then and in every such case the council shall from time to time issue a warrant, under the common seal of the said Mayor, Aldermen and Burgesses, to the Sheriff or other person having the return of jurors to serve in the Court of Sessions of the Peace for such borough, requiring him to impannel, summon and return, and the Sheriff or other person as aforesaid shall impannel, summon and return, a jury of at least Twenty-four sufficient and indifferent men, qualified according to the laws of this realm to be returned for trials of issues joined in Her Majesty's Courts of Record at Westminster, or Dublin, when such return is made in Ireland; and the persons so to be impannelled, summoned and returned shall appear before the Court of General or Quarter Sessions of the Peace having jurisdiction in the said borough, or at some adjournment thereof, as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impannelled, summoned and returned, a jury of Twelve Men shall be drawn by the Clerk of the Peace, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn, or at Dublin, when the jury is drawn in Ireland; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, the Clerk of the Peace shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all persons concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Clerk of the Peace shall be empowered and required, on request in writing by either party, to summon before the said Court of General or Quarter Sessions of the Peace all persons that shall be thought necessary to be examined as witnesses touching the matters in question, and may order the same jury, or any Six or more of them, to view the place or matter in controversy; and such jury shall, upon their oath, inquire of and assess and give a verdict for the sum of money to be paid for the purchase of such lands, except for such interest therein as shall have been purchased by the Mayor, Aldermen and Burgesses from any other person, and also the sum of money to be paid by way of compensation either for the damage which shall before that time have been done, or for the future damage to be so done, which compensation for such damage shall be assessed separately from the value of the land so to be taken, and the Court shall give judgment for such purchase-money or compensation as shall be assessed by such jury; which said verdict, and the judgment to be pronounced as aforesaid, shall be binding upon all persons whomsoever; and in such inquiry the person claiming compensation shall have all such privileges as plaintiffs in

actions at law are entitled to: Provided also, That not less than Seven Days' notice in writing of the time and place at which such jury are so required to be returned shall be given by the Mayor, Aldermen and Burgesses to the party with whom any such dispute shall arise, either by delivering such notice to such party, or by leaving the same at his place of abode, or with some tenant or occupier of the premises intended to be valued, or respecting which, or any damages to which, any such question shall arise.

16. Compensation-money to be apportioned.

And be it Enacted, That the said juries shall, if required, settle what shares of the purchase-money and compensation, which shall be assessed as aforesaid, shall be allowed to any tenant, or other person having a particular estate or interest in the premises, by way of lease or otherwise, for his interest therein.

17. Verdicts to be recorded.

And be it Enacted, That the said verdicts and judgments shall be kept, by the Clerk of the Peace, among the records of the Court of Sessions of the Peace, and shall be deemed records to all intents and purposes; and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of *One Shilling*; and also to take or make copies thereof, paying for every copy after the rate of *Sixpence* for every One hundred Words.

18. Penalty upon Sheriff, Clerk of the Peace, jurors, or witnesses making default.

And be it Enacted, That every Sheriff, Clerk of the Peace, or other person who shall make default in the premises, shall, for every such offence, forfeit and pay the sum of *Fifty Pounds* to the party who shall be injured thereby, to be recovered, with full costs of suit, by action of debt or on the case, in any of Her Majesty's Courts of Record at Westminster or Dublin, or in Her Majesty's Court of Common Pleas at Lancaster; and that every person so summoned and returned upon any such jury as aforesaid who shall not appear, or appearing, shall refuse to be sworn, or to make affirmation where entitled to affirm instead of swearing, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty, contrary to the true meaning of this Act; and every person so summoned to give evidence as aforesaid, who shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing, shall refuse to be sworn or to give evidence, having no reasonable excuse, to be judged of by the court, by the party for whom or on whose account any such jury or witness shall have been summoned, shall forfeit any sum not exceeding *Twenty Pounds*; which said last-mentioned penalty or forfeiture shall be levied, by warrant issuing out of the said court, by distress and sale of the goods and chattels of the person so offending, rendering to him, on demand, the overplus of the money thereby produced (if any), after such penalty and the charges and expenses of such distress and sale shall have been deducted.

And

19. Jurors to be under the same regulations as those of the courts at Westminster.

And be it Enacted, That every such jury shall be subject to the same regulations, pains and penalties as if such jury had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster or Dublin respectively; and all persons who, in any examination to be taken by virtue of this Act, upon their oath or upon their affirmation, shall wilfully and corruptly give false evidence before any such jury, shall be liable to the pains and penalties to which persons guilty of wilful and corrupt perjury are liable.

20. Expenses of jury how to be paid.

And be it Enacted, That in every case in which the verdict of a jury summoned as aforesaid shall be given for a greater sum than shall have been offered by the council for the purchase of any land, or as compensation for any damage, the costs, charges and expenses of such jury, and of taking the inquisition and obtaining the verdict and judgment thereon, or in anywise incident thereto, and of summoning and of the attendance of witnesses, and of the bond to be given by the party requiring such jury to be summoned as hereinafter mentioned, shall be defrayed by the council, and such costs, charges and expenses shall be settled and determined by an officer of the court; and in case such costs, charges and expenses shall not be paid to the party entitled to receive the same within *Ten* Days after the same shall have been demanded, then the same shall be levied and recovered by distress and sale of any goods and chattels of the Mayor, Aldermen and Burgesses, or of their Treasurer for the time being, under a warrant to be issued for that purpose by any Justice of the Peace having jurisdiction within the said borough, not interested in the matter in question; but if the verdict of the jury shall be given for the same or a less sum than shall have been offered by the Mayor, Aldermen and Burgesses, the said costs, charges and expenses shall be defrayed by the party with whom the Mayor, Aldermen and Burgesses shall have such dispute, and, having been settled in manner hereinbefore mentioned, be deducted out of the money adjudged to be paid to such other party as so much money advanced for his use: Provided always, That in cases in which, by reason of absence beyond the seas, or from any other disability not herein provided for, any person shall have been prevented from agreeing as aforesaid, the whole of such costs, charges and expenses shall be paid by the Mayor, Aldermen and Burgesses.

21. Persons requiring juries to enter into bonds to prosecute their complaints, and to pay expenses.

And be it Enacted, That all parties with whom the Mayor, Aldermen and Burgesses shall have any such dispute, and who shall require a jury to be summoned as aforesaid, shall, before the council shall be obliged to issue their warrant for the summoning of such jury, enter into a bond to the Mayor, Aldermen and Burgesses, in a penalty of *One hundred Pounds*, to prosecute their complaint, and to bear and pay the costs and expenses of summoning and returning such

jury, and taking such verdict, and of the summoning and attendances of witnesses, which shall fall upon them.

22. Notice of inquiry to be given to the Mayor, Aldermen and Burgesses before complaint.

And be it Enacted, That the council shall not be bound, nor shall any jury to be summoned by virtue of this Act be allowed without the consent of the council, to take notice of any complaint to be made by any party for any damage by him sustained in consequence of the execution of this Act, unless notice in writing by or on behalf of the person making such complaint, stating the particulars of such damage, and the amount of the compensation claimed in respect thereof, shall have been given by such person to the Mayor, Aldermen and Burgesses *Ten* Days before the summoning of such jury, and within the space of *Twelve* calendar Months after the time of such supposed damage having been sustained, or after the doing thereof shall have ceased.

23. Tenants at will, &c. to quit lands after notice.

And be it Enacted, That all persons in possession of any lands which the Mayor, Aldermen and Burgesses are empowered to purchase without the consent of the persons interested therein, and which shall be required for the purposes of this Act, and who shall have no greater interest than as tenants at will, or lessees for a year, or as tenants from year to year, shall deliver up possession thereof to the Mayor, Aldermen and Burgesses, or to such person as the council shall appoint to take possession of the same, at the expiration of *Six* calendar Months next after notice to that effect shall have been given by the Mayor, Aldermen and Burgesses to or left at the place of abode of such respective tenants or lessees in possession, or left upon the said premises; and in case any person so in possession shall refuse to give up possession as aforesaid, it shall be lawful for any *Two* Justices of the Peace having jurisdiction in the borough, and not interested in the matter, to issue their warrant to any constable of the said borough to deliver possession of the said premises to such person as shall in such warrant be nominated to receive the same on behalf of the Mayor, Aldermen and Burgesses; and such constable shall deliver possession of the said premises accordingly, and shall levy and satisfy such costs as shall accrue by reason of the issuing and execution of such warrant, by distress and sale of the goods and chattels of the person so refusing.

24. Interest of such tenants may be settled by a jury.

Provided always, and be it Enacted, That where any such tenant or lessee as shall be required to deliver up possession of any premises so occupied by him before the expiration of his term or interest therein shall give to the Mayor, Aldermen and Burgesses previous notice in writing thereof, the council shall make or tender to such tenant or lessee, before they shall issue such precept to the bailiff, sub-bailiff or constable, compensation for the value of his unexpired term of interest

interest in the said premises, and for any damage to be sustained by him; which compensation, in the case of difference, shall be settled in the same manner as any other compensation for any land purchased by the said Mayor, Aldermen and Burgesses is by this Act directed to be settled.

25. Compensation for goodwill.

And be it Enacted, That compensation by payment of a sum of money in gross shall be made by the said Mayor, Aldermen and Burgesses to every person interested, in respect of goodwill, loss of trade, and improvements in any shops, inns, taverns or retail warehouses which are authorized by this Act to be taken without the consent of the persons interested therein, for any damage whatsoever to be sustained by them by reason of the execution of any power hereby given, whereby his business shall be injured, and for the reasonable expenses of removal, where removal may be necessary, (whether such person shall be the owner or not,) and to all occupiers of such shops, inns, taverns or retail warehouses as aforesaid who shall not claim compensation in respect of loss of profits, and to all occupiers of any lands authorized by this Act to be taken without the consent of the persons interested therein, not consisting of shops, inns, taverns or retail warehouses, compensation for all reasonable expenses of removal, where removal may be necessary; and in case of any difference concerning the same, then such compensation shall be ascertained by a jury, in like manner as the value of any lands is by this Act directed to be settled, and the amount of such compensation shall be paid by the Mayor, Aldermen and Burgesses to such person before taking possession of the said premises.

26. When any land is unoccupied, notice to be given to the owner.

And be it Enacted, That where any land which shall be wanted for the purposes of this Act shall be unoccupied, notice in writing shall be given by the said council, or by some person authorized by them, to the owner of such land, or left at his place of abode, or left on some part of the said land, that the same will be wanted for the purposes of this Act; and such notice, so given or left, shall be binding upon every person who shall thereafter become the tenant or occupier of any such land; and the person so becoming tenant or occupier shall, after the expiration of *Six* calendar Months after such notice shall have been given or left as aforesaid, be liable to be removed from the possession of such land, without payment of any sum for any claim of right or interest therein.

27. Persons holding under leases to produce them.

And be it Enacted, That in all cases in which any person shall claim any compensation for any interest which he shall claim in any land intended to be taken under the authority of this Act, under any lease or agreement for lease, the council may require such person to show the lease or agreement in respect of which such claim shall be made; and if such lease or agreement shall not be shown within

Twenty-one Days after demand, by the Town Clerk of the said borough, or by any person by him authorized, the person claiming such compensation shall be treated as a tenant holding only from year to year, except in cases where such lease or agreement shall have been lost or mislaid, or is not in the custody or possession of such person.

28. For settling disputes as to damages to a small amount.

And be it Enacted, That in case any difference shall arise between the Mayor, Aldermen and Burgesses, and any owner or occupier of any land authorized to be taken or damaged for the purposes of this Act, as to the amount of the value of the damage done by the Mayor, Aldermen and Burgesses, their agents or workmen, to such property, in the execution of any of the powers of this Act, and such difference cannot be settled between the parties, the same shall, in case the amount of damage claimed does not exceed the sum of *Fifty Pounds*, be settled by Two or more Justices of the Peace having jurisdiction in the borough, not being members of the council, and not being interested in the question; and where there shall be no such Justices resident within the borough, then by Two or more Justices of the Peace for the county in which the borough is locally situate, or in the case of boroughs which are counties of themselves, to which it is adjacent; but, in either case, after having fully heard the parties in difference, or their respective agents, and after having received the evidence upon oath of such witnesses as shall be tendered on either side (which oath such Justices shall be empowered to administer).

29. Application of compensation-money amounting to 200*l.*

And be it Enacted, That if any money shall be agreed or awarded to be paid for the purchase of any land to be taken under this Act, or of any interest therein, or for the release of any such land from any rent or any incumbrance charged thereon, or for any compensation under this Act, which any corporation, tenant in tail or for life, husband, guardian, trustee, or feoffee in trust, committee, executor, or administrator, feme covert, or any trustee whatsoever for or on behalf of any wife, ward, lunatic, idiot or of any other cestuique trust whatsoever, or any person whomsoever, whose land is in settlement, or any person under any other disability or incapacity, shall be entitled unto, interested in, or hereby capacitated to convey, such money shall, in case the same shall, after the deduction of costs hereinbefore authorized (if any be payable), amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Chancery in England or Ireland, to be placed to his account there ex parte the Mayor, Aldermen and Burgesses of the said borough, pursuant to the general orders of the said Court of Chancery, and in either case without fee or reward; and shall, when so paid in, there remain until the same shall, by order of the said court made in a summary way upon petition to be presented

presented to the said court by the party who would have been entitled to the rents and profits of the said land, be applied either in the purchase or redemption of the land tax, or in or towards the discharge of any debt or such other incumbrance affecting the said land, or any part thereof, or affecting other land standing settled therewith to the same or the like uses, trusts, intents or purposes, as the said court shall authorize to be paid, or such part thereof respectively as shall be directed by the said court; or until the same shall, upon like application, be laid out, by order of the said court made in a summary way as aforesaid, in the purchase of other land, which shall be settled upon such and the like uses and trusts, and in the same manner as the land which shall be so taken, or in respect of which such compensation shall be paid, or such of them as at the time of making such settlement shall be capable of taking effect; and until such purchase can be made, the said money shall, by order of the said court upon application thereto, be invested by the said Accountant-general in his name in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum Reduced Bank Annuities, or in Government or Real Securities, as the said court shall direct; and in the meantime, and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in or cancelled, the dividends or interest and annual produce thereof shall from time to time, by order of the said court, be paid to the party who would for the time being have been entitled to the rents and profits of such land.

30. When less than 200*l.* and exceeding 20*l.*

And be it Enacted, That if any money agreed or awarded to be paid as last hereinbefore mentioned shall, after the deduction of such costs as aforesaid, be less than the sum of Two hundred Pounds, and shall exceed the sum of Twenty Pounds, then the same shall, at the option of the person for the time being entitled to the rents and profits of the land so taken, or other the interest purchased by the Mayor, Aldermen and Burgesses, or of the respective husband, guardian or committee of any such person, in case of coverture, infancy, idiocy, lunacy or other incapacity, with the approbation of the council, signified in writing under the common seal of the Mayor, Aldermen and Burgesses, be paid into the Bank of England or Ireland in the name and with the privity of the said Accountant-general, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed; or otherwise the same may be paid, at the like option and with the like approbation, to Two Trustees to be nominated by the respective parties exercising such option, such nomination to be approved of by the said council, and such nomination and approbation to be signified in writing under the common seal of the Mayor, Aldermen and Burgesses; and the money so paid to such trustees, and the dividends and produce so arising thereon and therefrom,

from, shall be by such trustees applied in like manner as is hereinbefore directed with respect to the money to be so paid into the Bank of England or Ireland.

31. When not exceeding 20*l.*

And be it Enacted, That when any money so agreed or awarded to be paid as last hereinbefore mentioned shall not (after deducting such costs as aforesaid) exceed the sum of Twenty Pounds, the same shall be applied to the respective parties who would for the time being have been entitled to the rents and profits of the land so taken and used for the purposes of this Act, or in respect of which compensation shall be paid, for their own use and benefit; or in case of coverture, infancy, idiocy, lunacy or other incapacity, then such money shall be paid for their use to their respective husbands, guardians, committees or trustees.

32. In case of not making out titles, &c. the money to be paid into the Bank.

And be it Enacted, That in case any party to whom any money shall be agreed or awarded to be paid for the purchase of any land to be taken or used under or by virtue of the powers of this Act, or for any interest therein, or for such compensation as aforesaid, shall refuse to accept the same, or to convey the premises or interest in the premises purchased, or shall refuse, neglect or be unable to make a title to such premises, or to such interest in the premises, to the satisfaction of the said council, or shall be absent beyond the seas, or shall not be found, or if any party entitled unto or to convey such land or such interest therein cannot be known or discovered, or be not shown to the satisfaction of the said council to be such party, then and in every such case it shall be lawful for the said council to order the money so agreed or awarded as aforesaid, after such deduction of costs as aforesaid, to be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Chancery, to be placed to his account to the credit of the parties interested in the said lands, (describing them, so far as the council can do,) subject to the control and disposition of the said court; which said court, on the application of any party making claim to such money, or any part thereof, by petition, shall, in a summary way of proceeding or otherwise, order the same to be laid out and invested in the public funds, and order distribution thereof or payment of the dividends thereof, according to the estate, title or interest of the party making claim thereunto, and may make such other order in the premises as to the said court shall seem proper; and the Cashier of the Bank of England or Ireland who shall receive such money shall give to the Mayor, Aldermen and Burgesses a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same is received.

Provided

33. Persons in possession presumptively entitled.

Provided always, and be it Enacted, That where any question shall arise touching the title of any party to any tenements, or any interest therein, or to any money to be paid into the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the Court of Chancery, in pursuance of this Act, the parties in possession or receipt of the rents or profits of such tenements at the time of the purchase thereof, and all persons claiming under such parties, or consistently with the possession or receipt of rents or profits by such parties, shall be deemed to have been lawfully entitled thereunto until the contrary shall be shown to the satisfaction of the court.

34. Power for Court of Chancery to order compensation.

And be it Enacted, That where any money agreed or awarded to be paid for the purchase of any lands taken under the powers of this Act, or for any compensation, shall have been paid into the Bank of England or Ireland pursuant to the directions contained in this Act, it shall be lawful for the said Court of Chancery, upon petition for that purpose by the party who would have been entitled to or in the receipt of the rents and profits of the lands in respect of which such money shall have been so paid in, from time to time to order such part of the said purchase or compensation monies as the said court shall think fit to be laid out and applied in the repairing or the rebuilding of any houses or other buildings taken down or injured in the construction of the works hereby authorized, in such manner as to the said court shall seem fit.

35. Court may order expenses of purchases to be defrayed by the Mayor, Aldermen and Burgesses.

And be it Enacted, That where, by reason of the disability or incapacity of any person entitled to any land to be taken or used for the purposes of this Act, or from any other cause whatsoever, the purchase-money for such land, or any money to be paid for or by way of compensation for damage done to the same, shall be required to be paid into the Bank of England or Ireland, and be subject to the orders of the Court of Chancery, under the provisions contained in this Act, it shall be lawful for the said court to order all the reasonable expenses attending such purchase, or which may be incurred in consequence thereof, and also of the investment of the purchase or compensation money paid in respect of such land, in real or Government securities, and likewise the re-investment of such purchase or compensation money, or the Government or real securities purchased therewith, in the purchase of land as hereinbefore mentioned, together with the expenses of obtaining the proper orders, and of the other proceedings for such purposes, and of the payment of the dividends and interest of the said Government or real securities, and of the payment of the principal of the said purchase or compensation money, and of the Government or real securities purchased therewith, out of court, to be paid by the Mayor, Aldermen and Burgesses, and the

the Mayor, Aldermen and Burgesses shall from time to time pay such sums of money for the said expenses as the said Court shall direct.

36. Costs of conveyances of lands, &c. to be paid by the Mayor, Aldermen and Burgesses.

And be it Enacted, That all the expenses, on the part as well of the seller as the purchaser, of all conveyances and assurances of any land which shall be purchased or taken by the Mayor, Aldermen and Burgesses for the purposes of this Act, and of verifying such title as the said council may require to the said land, and of making out and furnishing such abstract, and such attested copies as the said council may require, and all expenses whatsoever incident to the verification of such title, shall be exclusively borne and paid by the Mayor, Aldermen and Burgesses; and the Mayor, Aldermen and Burgesses, before entering into the land so purchased or taken, shall pay the amount of such expenses: Provided always, That the Mayor, Aldermen and Burgesses shall not be prevented from entering into possession of the land so purchased by reason of the non-payment of the said expenses, unless the party from whom such land shall have been purchased shall, within *Seven* Days after such notice in writing for that purpose shall have been given to him by the Mayor, Aldermen and Burgesses, deliver a bill of his said expenses to the Mayor, Aldermen and Burgesses.

37. How such costs are to be ascertained.

And be it Enacted, That if the council and the party aforesaid cannot agree as to the amount of such costs, charges and expenses, the same shall be ascertained by the said Court of Chancery, and it shall be lawful for the said court, on petition to be presented by the Mayor, Aldermen and Burgesses, to order and direct that such expenses shall be referred to one of the Masters of the said court to be taxed in the usual manner, and such order shall be served on the party aforesaid, who shall be at liberty to proceed under the same; and after taxation thereof it shall be lawful for the said court to order and direct the amount of such expenses so taxed, together with the expenses attending the taxation thereof, or so much of the same as shall be payable by the Mayor, Aldermen and Burgesses, to the person from whom such land shall have been purchased or taken, to be paid to such person; and the expense of determining such costs, charges and expenses as aforesaid, and of obtaining the order referring, shall be paid and borne by the Mayor, Aldermen and Burgesses, unless *One-sixth* of the expenses shall be disallowed, in which case the said expenses shall be paid and borne by the person or corporation from whom the said land was purchased or taken, and the amount thereof may be paid to the Mayor, Aldermen and Burgesses out of the said sums deposited by them as aforesaid.

38. Corporation not to enter into possession until

Provided always, and be it Enacted, That the Mayor, Aldermen and Burgesses shall not be at liberty to enter into possession of the land

land so taken until an order shall have been made for the taxation of the said expenses, and shall have been served on the party aforesaid, and the Mayor, Aldermen and Burgesses shall have deposited the amount claimed for such expenses in the Bank of England or Ireland, in the name and with the privity of the Accountant-general of the said Court of Chancery in England or Ireland, to be placed to his account ex parte the Mayor, Aldermen and Burgesses of the said borough, pursuant to the orders of the Court of Chancery; which sums shall be applied, under the order of the said court, in payment of the said expenses.

order for taxation of expenses made, and the amount deposited in the Bank.

39. Power to enter lands, &c. on payment or tender of purchase-money

And be it Enacted, That upon payment of such sum as shall have been agreed upon between the parties, or awarded by a jury in manner aforesaid, for the purchase of any land, or as a compensation for any damage as aforesaid to the respective proprietors of such land, or other persons interested therein, within *Thirty* Days after the same shall have been so agreed upon or awarded, or at any time after the expiration of the said *Thirty* Days, where the delay in making such payment shall have arisen from any act, neglect or default of the person entitled to such money, or if the persons so respectively interested and entitled as aforesaid cannot be found, or shall be beyond the seas, or shall refuse to receive such money as aforesaid, or shall refuse, neglect or be unable to make a good title to such land to the satisfaction of the council, or if any party entitled unto or to convey such land shall not be known, or shall be beyond the seas, or shall refuse, neglect, or be unable to convey the same, then, upon payment of such money into the Bank of England or Ireland as herein directed, it shall be lawful for the Mayor, Aldermen and Burgesses to enter upon such land, and thereupon such land and the fee-simple and inheritance thereof, together with the yearly profits thereof, and all the estate, use, trust and interest of all parties therein in respect of whose interests such money shall have been paid, shall thenceforth be vested in and become the sole property of the Mayor, Aldermen and Burgesses for the purposes of this Act; and such payment or tender and conveyance, or such deposit in the Bank of England or Ireland as aforesaid, shall operate to merge all outstanding or other terms of years, and to bar and destroy all dower, and all estates tail, and other estates in reversion or remainder, and all such rights, titles, limitations and trusts as aforesaid, of and in the said land, except so far as any outstanding estate may strengthen and protect the title of the Mayor, Aldermen and Burgesses.

40. No person compellable to sell part of his house if willing to sell the whole.

Provided always, and be it Enacted, That if any person by this Act authorized to convey any land shall be applied to, on behalf of the said Mayor, Aldermen and Burgesses, to treat for any part of any house,

house, shop, warehouse, building or manufactory in the actual occupation of one person, or of several persons jointly, and shall by notice in writing, to be left with the Town Clerk of the said borough within *Twenty-one* Days after such application, signify his desire to treat for the whole of such house, shop, warehouse, building or manufactory; and if the council shall not be willing to purchase the whole of such house, shop, warehouse, building or manufactory, then nothing in this Act contained shall extend to compel such person to convey, or to authorize the said Mayor, Aldermen and Burgesses to take part only or less than the whole of such house, shop, warehouse, building or manufactory.

41. Power to raise money at interest.

And be it Enacted, That it shall be lawful for the said Council from time to time, with the consent of the Lord High Treasurer, or *Three* or more Commissioners of Her Majesty's Treasury, to borrow at interest such monies as they shall need for the purposes of this Act, and by bonds under the common seal of the said Mayor, Aldermen and Burgesses, to secure the principal sums of money lent for the purposes aforesaid, with legal interest, to the persons lending the same, or by any deed or deeds under the common seal of the said Mayor, Aldermen and Burgesses, to convey and assure to such persons as shall lend any money for the purposes aforesaid, or to their trustees, as a security for the principal money lent, with legal interest for the same, such lands belonging to the said Mayor, Aldermen and Burgesses, in such manner and with such powers as the Council from time to time shall think reasonable; and every such bond, conveyance or other security shall be good and effectual.

42. Application of money borrowed.

And be it Enacted, That the money to be borrowed under this Act shall be applied by the said Council in payment of the purchase or compensation money for any of the lands taken under this Act for the purpose of widening and opening the said streets and places, and for improving the said borough, and for otherwise putting this Act in execution.

43. Payment of interest on money borrowed.

And be it Enacted, That the interest of any money borrowed under this Act, as the same shall become due, and the principal of such money, and such of the expenses incident to the execution of this Act, and of carrying its provisions into effect, which the money borrowed shall be insufficient to defray, shall be paid out of the rents and profits of the estates of the Mayor, Aldermen and Burgesses, or out of a rate which they shall have power to assess and levy within their borough, with and as part of the borough rate, by the name of an Improvement Rate.

And

44. Proportion of Improvement Rate to be borne by Tenants and Landlords.

And be it Enacted, That in every case in which any tenant or occupier of any lands or tenements within the borough shall have paid any improvement rate under this Act, he shall be entitled to deduct from his rent such part of the amount so paid by him as is hereinafter specified; (that is to say) if at the time of such payment he is a tenant for the unexpired term of *Fourteen* Years or any less term, he may deduct the whole amount; if more than *Fourteen* and not more than *Twenty-one* Years, he may deduct *Four-fifths* thereof; if for more than *Twenty-one* Years and not more than *Twenty-eight* Years, he may deduct *Three-fifths* thereof; if for more than *Twenty-eight* Years and not more than *Thirty-five* Years, he may deduct *Two-fifths* thereof; if for more than *Thirty-five* Years and not more than *Forty-two* Years, he may deduct *One-fifth* thereof; but if for more than *Forty-two* Years, he shall not be entitled to deduct any part thereof: Provided always, That any tenant under a lease containing a covenant for renewal thereof shall be deemed a tenant for the full term to which his holding may be extended under such covenant; and that every tenant for a term depending upon a life or lives, shall be deemed a tenant for such absolute term of years as shall be of the same value as such contingent term, according to the Government Tables for the purchase of Life Annuities; and every lessor, being himself also a tenant or lessee of any lands or tenements from whose rent any part of the amount so paid to the Commissioners shall have been deducted, shall be entitled in like manner to deduct from the rent payable by him to his lessor such part thereof as, according to the provisions hereinbefore contained, he would have been entitled to deduct from his rent had he paid as improvement rate the sum so deducted from the rent payable to him; and the receipt of the Treasurer of the borough or other person duly authorized in that behalf, shall be in each case a sufficient discharge for so much of the rent as is hereby authorized to be deducted: Provided also, That nothing herein contained shall be taken to affect any special contract between any lessor and tenant or occupier of any lands or tenements, whereby it is agreed that the tenant or occupier shall defray all improvement rates within the borough.

45. Council empowered to enter lands and execute works.

And be it Enacted, That, for the purpose of effecting the purposes of this Act, the council, their agents, servants, surveyors and workmen, shall be empowered, subject to the provisions of this Act, to enter into and upon any lands, and to survey and admeasure the same, and to set out such part thereof as they shall think necessary for effecting the purposes aforesaid, and to take, carry away, and use any earth, clay, stone, soil, rubbish, gravel or sand, or any other materials which may seem necessary or proper in effecting the said purposes, to the intent and meaning of this Act; and also from time to time to execute such works, and also to lay and work the materials necessary for effecting the said purposes on the land adjoining to the

place where the said works or any of them shall be intended to be made; and also, under the direction of the Commissioners of Sewers, if any in such borough, to make drains or conduits into, through or under any land in or near the said streets, for the purpose of conveying water from or to the same, or any part thereof, and to do all other things fit or necessary for effecting the purposes of this Act; they the said council, and their agents, servants and workmen, doing as little damage as may be in the execution of the several powers to them hereby granted, and making full satisfaction, in manner herein mentioned, to all persons interested in any lands which shall be taken, used or injured, for all damages to be by them sustained in the execution of this Act.

46. Plaintiff not to recover without notice, &c.

And be it Enacted, That no plaintiff shall recover in any action to be commenced against any person for any thing done in pursuance of this Act, unless notice in writing of such action shall have been given to the defendant, or left at his last or usual place of abode, *Twenty-one* Days before such action shall be commenced, signed by the attorney for the plaintiff, specifying the cause of the action, nor shall the plaintiff recover if tender of good and sufficient amends shall have been made to him or his attorney by or on behalf of the defendant before such action brought, or after such action brought, if made with tender of costs of suit to the time of such tender, but on proof thereof the plaintiff shall be nonsuited, and shall pay full costs, to be recovered in the same manner as any defendant may recover costs in any other case by law; or in case no tender shall have been made, it shall be lawful for the defendant, by leave of the court, at any time before issue joined, to pay into court such sum of money as he shall see fit, whereupon such proceedings, order and judgment shall be had, made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

47. Limitation of Actions.

And be it Enacted, That every action or suit which shall be brought or prosecuted against any person for any thing done in pursuance of this Act, shall be brought within *Three* calendar Months next after the fact committed, or in case there shall be a continuation of damages, then within *Three* calendar Months next after the doing such damages shall have ceased, and not afterwards; and every such action and suit shall be laid and brought in the liberty or county where the matter in dispute shall arise, and not elsewhere; and if any such action or suit shall have been brought after the expiration of the said *Three* calendar Months, or in any other county or place than as aforesaid, the jury shall find for the defendant.

AND

48. Validity or invalidity of Bolton Charter not to be affected.

AND whereas questions are now pending touching the validity of the charter of incorporation granted by Her Majesty, in the year One thousand eight hundred and Thirty-eight, upon the petition of certain of the inhabitants of Bolton, in the county of Lancaster, and touching the validity of the said petition; BE it therefore Enacted, That nothing in this Act contained shall be deemed to confirm or affect the said charter and petition, or either of them, or any Act done or to be done in pursuance thereof, but that all questions touching the validity or invalidity of the said charter and petition, or either of them, shall remain and be dealt with as if this Act had not passed.

49. Powers given to Councils of Boroughs by this Act to be exercised in Oxford by Commissioners under Act 11 G. 3, c. 19, for improving the City of Oxford.

Provided always, and be it Enacted, That the powers herein given to the councils of boroughs shall be exercised, in the city of Oxford, by the Commissioners appointed under an Act passed in the eleventh year of the reign of King GEORGE the Third, intituled, "An Act for amending certain of the Mileways leading to Oxford; for making a commodious Entrance through the Parish of Saint Clement; for rebuilding or repairing Magdalen Bridge; for making commodious Roads from the said Bridge through the University and City, and the Avenues leading thereto; for cleansing and lighting the Streets, Lanes, and Places within the said University and City, and the Suburbs thereof, and the said Parish of Saint Clement; for removing Nuisances and Annoyances therefrom, and preventing the like for the future; for empowering Colleges and Corporations to alienate their Estates there; for removing, holding and regulating Markets within the said City; and for other Purposes:" Provided also, That nothing in this Act contained shall empower the said Commissioners, or the Council of the borough of Cambridge, to take any lands belonging to the University of Oxford or Cambridge respectively, or to any college or hall of either of the said Universities, or in any manner to interfere with any lands or tenements belonging to either of the said Universities, or to any of the said colleges or halls, without the consent of the Chancellor, Masters, and Scholars of the University in which such lands and tenements are situated, and also the consent of the governing body of the college or hall to which such lands or tenements belong.

50. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

Boroughs Improvement.

(No. 2.)

A

B I L L

For the Improvement of certain Boroughs.

(*Prepared and brought in by*
Mr. Fox Maule, Mr. Tufnell and Lord Ashley.)

Ordered, by The House of Commons, *to be Printed,*
25 *February* 1842.

53.

Under 4 oz.

A

B I L L

To extend an Act passed in the Fourth and Fifth Years of Her present Majesty, for enabling Her Majesty's Commissioners of Woods to purchase certain Lands for Victoria Park.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the fourth and fifth years of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods to complete the Contract for the Sale of York House, and to purchase certain Lands for a Royal Park," the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being were empowered, on behalf of Her Majesty, to purchase certain Lands and Hereditaments therein mentioned, and containing in the whole about Two hundred and ninety Acres, with the Houses and Buildings thereon, as or for the site of a Royal Park, to be called "Victoria Park," in the Parishes of Saint John Hackney, Saint Matthew Bethnal Green, and Saint Mary, Stratford-le-Bow, or some or one of them, in the County of Middlesex; and to enable the said Commissioners, on behalf of Her Majesty, to purchase and acquire, and effectually to vest in Her Majesty, Her heirs and successors, the said Lands and Hereditaments, it is necessary and expedient that the powers and provisions of the said recited Act should be extended and enlarged; Preamble: 4 & 5 Vict. c. 27.

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of

of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

1. Maps or Plans of Victoria Park to be deposited at the Office of Woods, and at the Land Revenue Record Office.

THAT the Maps or Plans already made, describing the site or intended site, and boundaries or intended boundaries of Victoria Park, after the same shall have been authenticated in duplicate by the signature of the Right honourable the Speaker of the House of Commons, shall be deposited in the office of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and in the office of Land Revenue Records and Inrolments respectively; and the Maps or Plans so authenticated and deposited shall remain in such offices respectively, to the end that all persons may at all seasonable times have liberty to inspect and peruse the same at their will and pleasure, on paying the sum of *One Shilling* for every such inspection.

2. No deviation to be made without consent.

And be it Enacted, That the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, in making, forming and completing Victoria Park, shall not deviate more than Yards from the lines described in the aforesaid Maps or Plans as the boundaries or intended boundaries of the said Park, without the consent of the person or persons, bodies politic, corporate or collegiate, through whose lands or tenements such deviation shall be made.

3. Power to stop up and alter Roads, and to make Approaches to the Park.

And be it Enacted, That it shall be lawful for the said last-named Commissioners to stop up, divert, widen or alter all or any of the roads, ways, paths or passages which now lead into, upon, through, across or over any part or parts of the site or intended site of Victoria Park, and to set out and make in lieu thereof such other roads, ways, paths or passages as to the said Commissioners may seem fit and necessary, and to make and form such convenient approaches to the said Park as the said last-named Commissioners may deem suitable and proper.

4. Power to take Lands and Houses.

And be it Enacted, That for the purpose of making, forming and completing the said Park, it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, and they are hereby authorized and empowered to take and use, or cause to be taken and used, any lands, tenements or hereditaments, and pull down and remove, or cause to be pulled down and removed, any houses or buildings which they may deem necessary and expedient to take, use or pull down and remove for the purposes of this Act, or of the said recited Act, at any time at the expiration of *Six* calendar Months after notice in writing from the said last-named Commissioners or their agent duly authorized, of the intention to take or

use

use the same, shall either be given to the principal officer of the body politic, corporate or collegiate, or to the person or persons who shall be the owners and occupiers of such tenements or hereditaments, or in case he, she or they cannot be found or ascertained, left at the usual or last place or places of his, her or their abode, or with the tenant or tenants, occupier or occupiers of the same tenements or hereditaments, or shall be fixed upon the same premises; and for the purposes of this Act or of the said recited Act, the owner shall be any person hereby capacitated to sell.

5. No House to be taken without consent, unless mentioned in the Schedule.

Provided always, and be it Enacted, That no houses or buildings, garden or yard belonging to a house shall be taken or made use of for the purposes of this Act, or of the said recited Act, except such as are mentioned in the Schedule hereunto annexed, or as are situated within the limits of the deviation hereinbefore authorized, without the consent in writing of the owner or owners thereof being first had and obtained for that purpose.

6. Houses and Lands may be taken notwithstanding errors in the Schedule.

And be it Enacted, That it shall be lawful for the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, to purchase, take down and use for the purposes of this Act, or of the said recited Act, any of the houses, buildings, lands and other hereditaments described in the said Plan or Plans, to be deposited as aforesaid, as intended to be taken for the purposes of this Act, or of the said recited Act, although the same houses, buildings, lands and other hereditaments, or the name or names of the owner or owners, occupier or occupiers thereof, may happen to be erroneously stated or omitted in the Schedule hereunto annexed, in case it shall appear to any *Two* or more Justices of the Peace for the county of Middlesex, and be certified under their hands, that such error or omission proceeded from mistake or erroneous information.

7. Power to enter and survey Houses and Lands.

And be it Enacted, That it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and for their surveyors, officers and workmen from time to time at all reasonable times in the day-time, upon giving notice in writing for the first time Twenty-four Hours, and afterwards from time to time Twelve Hours' previous notice, to enter into and upon all or any of the said lands, tenements and hereditaments authorized to be taken and used as aforesaid, or any of them, for the purpose of surveying or valuing the said premises, without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty or punishment on account of entering or continuing upon any part or parts of the said

lands, tenements or hereditaments for the damages that shall be thereby occasioned.

8. Commissioners empowered to treat for the purchase of Lands.

And be it Enacted, That it shall be lawful for the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, and they are hereby empowered to treat and agree for the purchase of any lands, tenements and hereditaments which they may deem necessary for the purposes of this Act, or of the said recited Act, to be taken and used by them, and of any subsisting leases, terms, shares, estates and interests therein, and charges thereon, or such of them, or such part or parts thereof respectively as the said Commissioners shall think proper, and for that purpose to enter into any contract or contracts which they may think fit.

9. Bodies Politic and Trustees empowered to sell and convey.

And be it Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all trustees and feoffees in trust for charitable and other purposes, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics, or persons not born or not ascertained, or any other person or persons whomsoever, and to and for all tenants for life, or for years absolute or determinable on any life or lives, and all persons having any other partial or qualified estate or interest, not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the person or persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained or shall be incapable of contracting for, selling and conveying the same, and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and heirs, executors and administrators and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such lands, tenements or hereditaments, or to dower, or other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators and issue, and also where such wards, wives, persons, or femes covert respectively shall be tenants for life, or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardians, husbands, committees and femes covert, on behalf of the person or persons on behalf of whom such wards, wives, persons, or femes covert respectively,

tively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same lands, tenements or hereditaments, and to and for all and every other person or persons whomsoever who are or shall be seised or possessed of or interested in any lands, tenements or hereditaments which by the said last-named Commissioners shall be thought necessary for any of the purposes of this Act or of the said recited Act, to contract for, sell and convey the same and every or any part thereof to The Queen's most Excellent Majesty, Her heirs and successors, or to such person or persons as a trustee or trustees on behalf of Her Majesty, Her heirs and successors, as the said last-named Commissioners for the time being or any *Two* of them shall direct; and all contracts, agreements, bargains, sales, conveyances and assurances, acts and deeds which shall be made by such bodies politic, corporate or collegiate, trustee or trustees, or other person or persons as aforesaid, shall be valid and effectual in law, and all bodies politic, corporate or collegiate, and all persons whomsoever contracting or conveying as aforesaid are hereby indemnified for or in respect of any such sale which they, he or she or any of them shall respectively make by virtue or in pursuance of this Act or of the said recited Act.

10. Satisfaction for the value of Lands taken may be accepted.

And be it Enacted, That all and every body and bodies politic, corporate or collegiate, trustee or trustees, and other person and persons hereinbefore capacitated to contract for, sell and convey any such lands, tenements or hereditaments as aforesaid, and any other owner or owners of any such lands, tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, may accept and receive such satisfaction and recompense for the value thereof; and such body or bodies, trustee or trustees, person or persons, owner or owners, and also any tenant or tenants or other occupier or occupiers of any such premises entitled to any compensation for tenants' fixtures, or for any other injury or damage as shall be sustained on account of the execution of this Act or of the said recited Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between them respectively and the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings on behalf of Her Majesty; and in case the said Commissioners and the said parties interested in such lands, tenements or hereditaments or fixtures, or sustaining any injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled by a jury in manner hereinafter directed.

11. Parties to deliver Statements of their Claims within One Month after notice.

And be it Enacted, That on or before the expiration of *One* calendar Month next after notice in writing from the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, or any *Two* of them, or their agent duly authorized, of the intention to take or use any lands, tenements or hereditaments or any part thereof for the purposes of this Act or of the said recited Act, shall have been given, left or affixed as hereinbefore is mentioned, all and every body and bodies politic, corporate and collegiate, trustee and trustees, and other person and persons seised, possessed of, or interested in, or authorized by this Act or by the said recited Act to accept and receive satisfaction or recompense for the value of the same, or any estate, share or interest therein or charge thereon, having or claiming to be entitled to any compensation for any good-will or improvements, or for fixtures, or for any injury or damage sustained on account of the execution of this Act or of the said recited Act, shall deliver or cause to be delivered to the said last-named Commissioners for the time being, by leaving the same at their office, a statement in writing of the particulars of the estate, share, interest or charge which he, she or they claim to be entitled to, or to be authorized to receive in satisfaction or recompense for and of the good-will and improvements which may be lost, and of the fixtures and of the injury or damage (if any) sustained by him, her or them, and of the amount of the sum or sums of money which he, she or they may expect and be willing to receive in satisfaction or discharge for the value of such estate, share, interest or charge, and also the amount of the sum or sums of money which he, she or they may expect and be willing to receive as compensation for such good-will and improvements and fixtures, and for such injury or damage respectively.

12. If parties refuse to treat, or shall not agree, a Jury to be summoned.

And be it Enacted, That if any owners or proprietors, bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, trustees, femes covert, or any other person or persons seised, possessed of or interested in any lands, tenements or hereditaments, or in any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, which the said Commissioners, on behalf of Her Majesty, are hereby or by the said recited Act empowered to purchase, take and use for the purposes aforesaid, shall neglect or refuse to treat, or shall not agree in the premises, or by reason of absence or disability shall be prevented from treating with the said Commissioners, or with the person or persons authorized by them, for the sale and disposal of their respective estates and interests therein, or cannot be found or known, or shall not produce and evince a clear title to the premises they may be in the possession of, or to the interest they shall claim therein, to the satisfaction of the said Commissioners, then and in every

every or any such case the sheriff of Middlesex or his under-sheriff, or in case such sheriff or under-sheriff shall be in anywise interested in the matter in question, then some one of the coroners of the county of Middlesex not interested therein, shall, upon the warrant of the said Commissioners, in manner hereinafter mentioned, and he or they is and are hereby required and authorized to cause it to be inquired into and ascertained, upon the oaths of a Jury of *Twelve* indifferent men of the said county of Middlesex, which oaths the said sheriff, under-sheriff or coroner is and are hereby empowered and required to administer, what recompense and satisfaction shall be made to such owners, occupiers or other person or persons interested for the value of such lands, tenements or hereditaments, and of the proportionable value of the respective estates and interests of every person or persons seised or possessed thereof or interested therein, or of or in any part thereof, and assess or award the sum or sums of money to be paid to such person or persons, party or parties respectively, for the purchase of such lands, tenements or hereditaments, and of such respective estates and interests therein, and also for good-will, improvements, or any injury or damage whatsoever, that may affect any such person or persons, party or parties, provided such good-will shall be estimated by what, in the opinion of such jury, the same would have been worth in case the alterations or improvements intended by this Act or the said recited Act had not been in contemplation; and the said jury, in estimating such recompense and satisfaction, shall take into their consideration the increase in value of the residue of any property of which such lands, tenements or hereditaments shall form part; and in order thereto, the said sheriff or coroners is and are hereby empowered and required, from time to time as occasion shall require, to summon and call before the said jury and examine upon oath all and every person or persons whomsoever who shall be thought necessary and proper to be examined as a witness or witnesses touching or concerning the premises (which oath the said sheriff, under-sheriff or coroner is and are hereby empowered to administer); and such sheriff, under-sheriff or coroner respectively shall order and cause the said jury to view the places in question, if there be occasion, and use all other lawful ways and means, as well for his and their own as for the said jury's better information in the premises, as the said sheriff, under-sheriff or coroner shall think fit; and after the said jury shall have inquired of and ascertained and settled such damage, recompense and satisfaction, the said sheriff, under-sheriff or coroner shall thereupon order the sum or sums of money so assessed by the said jury to be paid by the said Commissioners to the said owners or occupiers of or other persons interested therein, according to such verdict or inquisition of the said jury, which said verdict or inquisition and order, so had and made, shall be final, binding and conclusive, to all

all intents and purposes, upon and against all bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, as well as all other parties and persons whomsoever; and for the summoning and returning of such jury or juries, the said Commissioners are hereby empowered to issue their warrant or warrants to the said sheriff, under-sheriff or coroner, to summon, impannel and return at some convenient place in the said county of Middlesex a Jury of not less than *Thirty-six* or more than *Forty-eight* honest and indifferent men, qualified according to law to be returned for trials of issues in Her Majesty's courts of record at Westminster, to appear before the said sheriff, under-sheriff or coroner, at such time and place as in such warrant shall be appointed, and *Fourteen* Days' notice at the least in writing under the hands of the said Commissioners or any *Two* of them, of the time and place at which such jury are so required to be returned, shall be given to such owners, proprietors, occupiers, corporations, trustees, or any other person or persons interested in the premises, before the time of meeting of the said jury, by leaving such notice at the dwelling-house of such person or persons, or of the head officer of such body or bodies politic, corporate or collegiate, or with some tenant or occupier of the premises respectively intended to be valued; and the said sheriff, under-sheriff, or coroner is and are hereby empowered and required to impannel, summon and return such number accordingly; and out of the persons so impannelled, summoned and returned, or out of such of them as shall appear upon such summons, the said sheriff, under-sheriff or coroner shall swear or cause to be sworn *Twelve*, who shall be the Jury for the purposes aforesaid; and in default of a sufficient number of jurymen, the said sheriff, under-sheriff or coroner shall return other honest and indifferent men, of standers-by, or that can be speedily procured to attend that service (being qualified as last aforesaid) to the number of *Twelve*; and it shall be lawful for all persons concerned, by themselves, their counsel, solicitors and agents, to attend and be heard, and to adduce evidence before the sheriff, under-sheriff or coroner respectively; and such persons shall also have their lawful challenge against any of the said jurymen when they come to be sworn, but shall not challenge the array.

13. Where part of an Estate is taken, the remainder to be valued.

And be it Enacted, That if the owner, lessee or occupier of any lands, tenements or hereditaments authorized to be taken by virtue of this Act or of the said recited Act, shall not be inclined to sell or part with the whole thereof, or of his or her interest in the whole thereof, and it shall not be found necessary to take the whole for the purposes of this Act or of the said recited Act, and the said parties cannot agree as to the sum of money to be paid for the part which the said Commissioners, or any person or persons authorized by them,

them, shall not think it necessary to purchase, then and in such case the jury which shall be summoned to value the premises shall assess the value of the whole premises, according to the condition in which they are at the time of taking the view, and also the value of that part of the premises which will remain after the said Commissioners, or the person or persons authorized by them, have taken away so much as they shall think necessary for the purposes of this Act or of the said recited Act; and in such last valuation the said jury shall take into their consideration the improvement or depreciation which the remainder of the premises is likely to receive or sustain from the alteration intended to be made; and the jury having made these two valuations, the difference between them shall be the price to be paid by the said Commissioners on behalf of Her Majesty, for that part for which they shall have occasion for, and such price shall be recorded as the verdict of the jury for the value of the same.

14. Notice to be given of Compensation claimed.

And be it Enacted, That no jury to be summoned by virtue of this Act shall be allowed to assess or award any sum or sums of money to any body or bodies politic, corporate or collegiate, person or persons, by way of compensation for good-will or improvements alleged to have been lost, or tenants' fixtures, or any injury or damage alleged to have been sustained by him or them, by reason or means of this Act or of the said recited Act, or any thing which shall or may be done in the execution hereof, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, shall have been given to the said Commissioners, or left at their office as aforesaid by and on behalf of such person or persons, *Ten* Days at least before the time of the meeting of such jury.

15. Penalty on Sheriff, Jury and Witnesses, for neglect of duty.

And be it Enacted, That if the sheriff, under-sheriff or coroner so directed to summon and return a jury as aforesaid shall make default in the premises, he shall for every such offence forfeit and pay any sum not exceeding *Ten* Pounds to the party who shall be prejudiced or injured thereby, to be recovered with full costs of suit, by action of debt or on the case, in any of Her Majesty's Courts of Record at Westminster; and if any person so summoned and returned as aforesaid upon such jury shall not appear, or appearing shall refuse to be sworn or to give his verdict, or shall in any other manner wilfully neglect his duty, contrary to the true intent and meaning of this Act, or if any person so summoned as a witness shall not appear, or appearing refuse to be examined or to give evidence, any person so offending having no reasonable excuse, to be allowed by the Justices hereinafter mentioned, shall for every such offence forfeit and pay any sum not exceeding *Ten* Pounds; which several and respective penalties shall and may be levied by virtue of any warrant under

the hand and seal of one of Her Majesty's Justices of the Peace for the county of Middlesex, by distress and sale of the goods and chattels of the person so offending, the person making such distress and sale rendering to him or her the overplus of the money thereby produced (if any), after such penalty and the charges of such distress and sale shall be deducted; and all such fines shall be paid to the said Commissioners, to be applied for the purposes of this Act, or of the said recited Act.

16. Jury shall, if required, assess value of fee-simple, and then apportion values of respective interests therein.

And be it Enacted, That in all cases in which a verdict shall be given for the value of any lands, tenements or hereditaments, or share or shares therein, the jury shall, if required so to do by or on behalf of the said Commissioners, inquire of, assess and ascertain the value of the fee-simple of the entirety of the said premises, and shall afterwards apportion and divide the value so ascertained between and among all the different shares and charges which shall be claimed, and also between different parts of the said lands, tenements or hereditaments alleged to be held under different titles: Provided always, That the verdict of any jury shall not defeat or prejudice any contract or sale which shall have been previously made of any share or charge, although the value of the same may be ascertained to be different from the amount of the price, recompense or satisfaction agreed to be paid for the same.

17. Verdict of value of Lands and Damages to be ascertained separately.

And be it Enacted, That the jury and juries so to be summoned as aforesaid, shall award all determinations, judgments and verdicts which they shall make and give in execution of the powers hereby vested in them, concerning the value of the lands, tenements or hereditaments, or of any share or shares, estate or estates, interest or interests therein, or any charge or charges thereon, separately and distinctly from the consideration of any loss of good-will to which the occupier may personally be entitled, or any other loss or damage to be sustained by any person or persons in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the hereditaments, or share or shares, estate or estates, interest or interests therein, or charges thereon, and the money assessed or adjudged for such good-will, loss or damage, as aforesaid, separately and apart from each other; and when any money shall be assessed or adjudged for such good-will, loss or damage, as aforesaid, the jury shall, if required by the said Commissioners, award and declare whether the statement delivered by the claimant or claimants of the manner in which any amount of the money which shall have been demanded as a compensation for the same has been computed and made up, give sufficient particulars to enable the said Commissioners to make a proper offer.

18. Providing for Expenses of Jury.

And be it Enacted, That in case any jury, to be summoned and sworn pursuant to the authority of this Act, shall give in a verdict or assessment for more money as a recompense, compensation or satisfaction for the rights, interests or property of the person or persons in any such lands, tenements or hereditaments, or for any such good-will, improvements, injury or damage, as aforesaid, than shall have been agreed to be given and offered for the same in the aggregate by the said Commissioners, before the summoning and returning of such jury, or where, by reason of absence in foreign countries, or other incapacity or disability as aforesaid, there shall not be found any person or persons legally capacitated to enter into any contract with the said Commissioners on behalf of Her Majesty, then and in every such case all the reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a jury, shall be settled by the sheriff, under-sheriff or coroner before whom such claim shall have been tried, and shall be paid by the said Commissioners on behalf of Her Majesty; but in every case in which any jury so summoned and sworn as aforesaid shall be of opinion that the statement delivered by the claimant or claimants of the manner in which any amount of money which shall have been demanded as a compensation has been computed and made up, did not give sufficient particulars to enable the said Commissioners to make a proper offer, and in every other case in which any such jury shall give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction, as aforesaid, than shall have been agreed to and offered by the said Commissioners in the aggregate for the same, before the summoning and returning of the said jury, or in case no damages shall have been given by the verdict where the dispute is for damages only, or where the causing or procuring such jury to be summoned shall have arisen from a refusal to treat or agree with the said Commissioners by any body or bodies politic, corporate or collegiate, or by any person or persons whomsoever who is or are, by the provisions of this Act, or of the said recited Act or otherwise, legally empowered to treat, then (except where by reason of absence such person shall be prevented from treating with the said Commissioners) all such costs, charges and expenses to be settled by such sheriff, under-sheriff or coroner in manner aforesaid shall be paid to the said Commissioners, on behalf of Her Majesty, by the said body or bodies corporate or collegiate, or other person or persons so claiming such compensation, or refusing to treat and agree as before mentioned respectively (save only and except where by reason of absence, or other like cause, any person shall have been prevented from treating or agreeing as aforesaid, in which case no costs, charges or expenses shall be allowed to either party as against the other); and all costs, charges and expenses hereby directed to be paid to the said Commissioners on behalf

behalf of Her Majesty shall and may be deducted and retained by them out of the money so adjudged or assessed to be paid by them as so much money advanced to and for the use of the person and persons entitled to such money so adjudged; and payment or tender of the remainder of such money shall be deemed and taken to be a payment or tender of the whole sum or sums so adjudged or assessed; or in case no money or no sufficient sum of money shall be awarded or assessed to be paid by the said Commissioners on behalf of Her Majesty, whereout such costs, charges and expenses can be deducted, then the same shall and may be recovered by virtue of any warrant under the hand and seal of one of Her Majesty's Justices of the Peace for the county of Middlesex, by distress and sale of the goods and chattels of the person or persons liable to the payment of the same, the party making such distress and sale rendering to such person or persons as aforesaid the overplus of the money thereby produced (if any), after such costs, charges and expenses, and the charges of such distress and sale shall be deducted.

19. Verdicts to be recorded.

And be it Enacted, That all the said judgments and verdicts shall be recorded in the office of Land Revenue Records and Inrolments, and a minute or docquet thereof respectively entered in the office of the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings; and all such judgments and verdicts shall be afterwards deposited with the Clerk of the Peace of the said county of Middlesex, to be kept and preserved by him amongst the records of the quarter sessions of the said county, and shall be deemed to be records to all intents and purposes whatsoever; and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever, and all persons shall have liberty to inspect the same, paying for each such inspection the sum of *One Shilling*, and to take copies thereof, paying for every copy the sum of *Sixpence* for every Seventy-two Words, and so in proportion for any less number of words.

20. Commissioners empowered to purchase the whole, if the Owners decline to sell part.

And be it Enacted, That if in any case the owner or owners of any house or building, or of any yard or curtilage occupied therewith, part only of which premises shall at any time be required by the said Commissioners to be applied for the purposes aforesaid, shall be unwilling to sell or dispose of such part only of such house, building, yard or curtilage as shall be required by the said Commissioners, it shall be lawful for the said Commissioners on behalf of Her Majesty, and they are hereby required, at the option of any owner or owners of any such house, building, yard or curtilage, to purchase of and from the said owner or owners the whole or such part thereof, over and above such part thereof as may be wanted for the purposes of this Act, as such owner or owners shall think fit, and to apply so much

much and such part thereof as they the said Commissioners shall see fit for the purposes aforesaid; and that if such owner or owners shall not or cannot agree with the said Commissioners for the price to be paid for the purchase of the whole, or such part thereof as aforesaid, of such house, building, yard or curtilage, then the value thereof shall be settled and ascertained by a jury, in such manner as the price for any premises to be taken in pursuance of this Act is directed to be settled and ascertained; and all such other proceedings shall take place respecting the said premises as are hereinbefore mentioned and directed with respect to the premises, the value of which shall be ascertained by a jury in the manner aforesaid.

21. Persons holding Under-leases to produce the same.

And be it Enacted, That in all cases in which any person or persons shall claim any satisfaction or compensation for or in respect of any unexpired term or interest which he, she or they shall claim to be possessed of or entitled unto in any lands, tenements or hereditaments intended to be taken or used under the authority of this Act or of the said recited Act, under or by virtue of any demise or lease, or agreement for demise or lease, or grant thereof, the said Commissioners are hereby authorized to require such person or persons to produce or show the demise or lease, or agreement for demise or lease, or grant, in respect of which such claim to satisfaction or compensation shall be made, or the best evidence thereof in his, her or their power; and if such demise or lease, or agreement for demise or lease, or grant, or such best evidence thereof, as aforesaid, shall not be produced or shown within *Twenty-one* Days after demand made by the said Commissioners, or any person by them authorized, the person or persons claiming such satisfaction or compensation shall be considered and treated as holding only from year to year.

22. For settling disputes as to Damages of a small amount.

And be it Enacted, That in case any difference shall arise between the said Commissioners and any of the owners or occupiers of the property to be taken or used for the purposes of this Act, or of the said recited Act, as to the amount or value of the damage done by the said Commissioners, their agents or workmen to such property, in the execution of any of the powers of this Act or of the said recited Act, and such difference cannot be adjusted and settled between the parties, the same shall, in case the amount of damages claimed does not exceed the sum of *Fifty* Pounds, be ascertained and determined by some Two or more Justices of the Peace of the county of Middlesex, and who, upon application made to them by both or either of the said parties, shall examine into the matter in dispute, and shall determine and settle the amount of compensation which shall be payable by the said Commissioners on behalf of Her Majesty; and such Magistrates may examine witnesses and

administer oaths in all respects, and with the same consequences as to false swearing, as if the same were a judicial matter brought before them on which they were by law entitled to adjudicate.

23. Commissioners not to take possession till Purchase-money is paid or tendered.

Provided always, and be it Enacted, That all sums of money or other consideration, recompense or satisfaction to be made or paid pursuant to any such agreement or verdict as aforesaid, shall be paid or tendered to the party or parties entitled to the same, or into the Bank of England as herein mentioned, before the said Commissioners, or any person or persons authorized by them, shall proceed to take possession on behalf of Her Majesty, or pull down any house or houses, or other erections or buildings comprised in or affected by such agreement or verdict respectively, or to use the ground for any of the purposes of this Act or of the said recited Act.

24. Commissioners may take possession on payment of Purchase-money into the Bank of England.

And be it Enacted, That if any body or bodies, person or persons seised or possessed of or interested in any such lands, tenements or hereditaments, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, as aforesaid, cannot be found, or shall not be known or ascertained, or shall not be able to make a good title to the premises to the satisfaction of the said Commissioners, or shall refuse to execute a conveyance or conveyances thereof, then and in any of such cases, upon payment of such sum or sums of money as shall have been contracted and agreed, or shall have been assessed and awarded by any referee or referees, or by any jury or juries in manner aforesaid, to be paid for the purchase of or for the value of the same premises into the Bank of England, as hereinafter directed and required (in case the same shall be requisite), for the use of such person or persons so interested in or entitled as aforesaid, such lands, tenements or hereditaments, or parts, shares, estates, interests or charges, and the fee-simple and inheritance thereof, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body or bodies, person or persons, or unknown person or persons, to whose credit such money shall be paid in, to and out of the lands, tenements, hereditaments and premises to be purchased as aforesaid, shall from thenceforth vest in The Queen's most Excellent Majesty, Her heirs and successors, as part and parcel of the possessions and land revenues of Her Majesty in right of the Crown, who shall be deemed in law to be in the actual seisin and possession thereof, to all intents and purposes, freed and discharged from all former and other estates, rights, titles, interests, liens, claims and demands, as fully and effectually as if every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale, enrolled and with the assent of any protector of the settlement whose assent might be necessary, or

feoffment

feoffment with livery of seisin, or any other conveyance or assurance whatsoever; and such payment shall not only bar all right, title, interest, claim and demand of the body or bodies, person or persons, or unknown person or persons of, in and to the same premises to whose credit such payment or tender shall have been made, but also shall extend to and be deemed and construed to bar the dower and dowers of the wife and wives of such person or persons, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue and issues of such person or persons, and every other person whomsoever; and the same premises shall and may thereupon be pulled down, made use of and employed for the purposes aforesaid, according to the direction of the said Commissioners, and under the regulations in this Act and the said recited Act mentioned and contained.

25. Application of Purchase-money when amounting to £. 200.

And be it Enacted, That if any money shall be agreed or assessed to be paid for any lands, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or for any other right, matter or interest, of what nature or kind soever, purchased, taken or used by virtue of this Act or of the said recited Act, which shall belong to any body politic, corporate or collegiate, feme covert, infant, lunatic or other person or persons under any disability or incapacity, or not legally entitled absolutely to dispose of the premises, by the sale of which such money shall be produced, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed, be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there, ex parte "The Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings," pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and Indorsements thereon, and likewise Indorsements on South Sea Bonds," and pursuant to the general rules and orders of the said court, and without fee or reward, according to the Act of the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out on proper Securities any Monies not exceeding a Sum therein limited, out of the Common and General Cash in the Bank of England, belonging to the Suitors of the said Court, for the ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and such money shall remain so deposited until the same be applied under the direction of the said court,

to be signified by an order made upon petition to be preferred in a summary way by the body or bodies, person or persons who would have been entitled to the rents and profits of the said lands, tenements or hereditaments in the purchase or redemption of the land-tax, or towards the discharge of any debt or debts, or other incumbrances or part thereof, as the said court shall authorize to be paid, affecting the same lands, tenements or hereditaments or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or affecting other lands, tenements or hereditaments standing settled therewith, to the same or the like uses, trusts, intents or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said court, in the purchase of other lands, tenements or hereditaments, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the hereditaments which shall be so purchased, taken or used as aforesaid, stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing and undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said court, upon application thereto, be invested by the said Accountant-General in the purchase of Three Pounds per centum Consolidated or Three Pounds per centum Reduced Bank Annuities; and in the meantime and until the Bank Annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said court to the body or bodies, person or persons who would for the time being have been entitled to the rents and profits of the lands, tenements and hereditaments so hereby directed to be purchased, in case such purchase or settlement were made.

26. When less than £. 200, and amounting to £. 20.

Provided also, and be it Enacted, That if any lands, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, purchased, taken or used for the purposes aforesaid, belonging to any corporation or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the body or bodies, person or persons for the time being entitled to the rents and profits of the hereditaments, or parts, shares, estates, interests or charges so purchased, taken or used, or of his, her or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of England in the name and with the privity of the said Accountant-

Accountant-General of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to Two or more Trustees, to be nominated by the body or bodies, person or persons making such option, and approved of by the said Commissioners, such nomination and approbation to be signified in writing under the hands and seals of the nominating and approving parties, in order that such principal money, and the dividends arising thereon, may be applied in manner hereinbefore directed, so far as the case may be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

27. Where less than £. 20.

Provided always, and be it Enacted, That where such money so agreed or assessed to be paid, as hereinbefore mentioned, shall be less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or bodies, person or persons, who would for the time being have been entitled to the rents and profits of the hereditaments, parts, shares, estates, interests, and charges so purchased, taken or used for the purposes of this Act, in such manner as the said Commissioners shall think fit; or in case of the infancy or lunacy of such person or persons, then such money shall be paid to his, her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

28. In case of not making out Titles.

And be it Enacted, That in case the body or bodies, person or persons, to whom any sum or sums of money shall be agreed to be paid, or shall be awarded by any referee or referees or umpire, or by any jury or juries, for the purchase of any lands, tenements or hereditaments, or any parts, shares, estates or interests therein or charge thereon, to be purchased, taken or used by virtue of this Act, shall not be able to make a good title to the premises to the satisfaction of the said Commissioners, or shall refuse to execute a conveyance or assignment thereof, or in case the person or persons to whom such sum or sums of money shall be so agreed or awarded to be paid as aforesaid, cannot be found, or if the person or persons entitled to such lands, tenements or hereditaments, parts, shares, estates, interests or charges be not known or discovered, then and in every such case it shall be lawful for the said Commissioners to pay the said sum or sums of money so awarded or agreed to be paid as aforesaid, into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to be placed to his account to the credit of the party or parties, if known, who shall be interested in the said lands, tenements or hereditaments, parts, shares, estates, interest or charges (describing such

tenements or hereditaments); but if such party or parties shall not be known, then to the credit of the said Commissioners, subject to the order, control or disposition of the said Court of Chancery; which said Court, on the application of any body or bodies, person or persons, making claim to any such sum or sums of money or any part thereof, by motion or partition, shall be and the same is hereby empowered in a summary way of proceeding, or otherwise as to the same court shall seem meet, to order the same to be laid out and invested in the Public Funds, or to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest of the body or bodies, person or persons making claim thereunto, and to make such other order in the premises as to the said court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of England who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what the same is or are received, to such person or persons as shall pay any such sum or sums of money into the Bank as aforesaid.

29. Where any question shall arise, the person in possession shall be deemed entitled until the contrary be shown.

Provided always, and be it Enacted, That where any question shall arise touching the title of any body or bodies, person or persons, to any money to be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, in pursuance of this Act, for the purchase of any lands, tenements or hereditaments, or part or parts thereof, or of any estate, right, title, charge or interest in, to or upon any lands, tenements or hereditaments to be purchased or taken in pursuance of this Act, or to any Bank Annuities to be purchased with any such money, or to the dividends of any such Bank Annuities, the body or bodies, person or persons who shall have been in possession of such lands, tenements or hereditaments, parts, shares, estates, interests or charges at the time of such purchase, and all body or bodies, person or persons claiming under such body or bodies, person or persons, shall be deemed and taken to have been lawfully entitled to such lands, tenements and hereditaments, parts, shares, estates, interest or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery; and the dividends or interest of the Bank Annuities to be purchased with such money, and also the capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such lands, tenements or hereditaments, or part or parts thereof, or to some estate or interest therein or charge thereon.

Provided

30. Court may order Expenses of Purchases to be paid by the Commissioners.

Provided also, and be it Enacted, That where by reason of any disability or incapacity of the body or bodies, trustee or trustees, corporation, or other person or persons entitled to any lands, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, to be purchased or taken under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, and to be applied in the purchase of other lands, tenements or hereditaments, to be settled to the like uses in pursuance of this Act, it shall be lawful for the said court to order so much of the expenses of any purchase to be made in pursuance of this Act as the said court shall deem reasonable, to be paid by the said Commissioners, who shall pay the same out of the monies applicable to the purposes of this Act, as the said court shall direct.

31. When the Title is defective by reason of a rent payable out of other Estates, as well as Hereditaments required for the purposes of this Act, the Money paid into the Bank to be laid out in the purchase of other Estates, which shall be subject to the Rent in the same manner.

And be it Enacted, That where the money awarded to be paid for any lands, tenements or hereditaments which shall be taken for the purposes of this Act, shall be paid into the Bank of England in manner hereinbefore directed, in consequence of a good title not having been made to such lands, tenements or hereditaments, to the satisfaction of the said Commissioners or any person or persons authorized by them, by reason of the same lands, tenements or hereditaments respectively being subject, together with other hereditaments not required for the purposes of this Act, to a rent payable to some body or bodies politic, corporate or collegiate, person or persons unable or unwilling to release therefrom the lands, tenements or hereditaments so to be taken, then and in every or any such case, the lands, tenements or hereditaments for the value of which the money to be paid into the Bank, together with the money (if any) to be retained for costs and charges, under the authority of this Act, shall be assessed and be awarded to be paid, shall be and are hereby released, and for ever discharged from such rent, and all claims and demands in respect thereof, and the money to be paid into the Bank of England shall be laid out and invested under the direction and with the approbation of the Court of Chancery, to be signified by an order made, upon a petition to be preferred in a summary way by the body or bodies, person or persons who would have been entitled to the rents and profits of the lands, tenements and hereditaments, for the value of which such monies respectively shall have been paid as aforesaid, in the purchase of other lands, tenements or hereditaments, which shall be conveyed and settled (subject, together with such other lands, tenements or hereditaments, to such rent) to the like uses, trusts, intents and purposes, and in the same manner, as the lands, tenements or hereditaments so to be taken as aforesaid stood settled or limited,

or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the said court, upon application thereto, be invested by the Accountant-General of the said court, in his name, in the purchase of Three Pounds per centum Consolidated or Three Pounds per centum Reduced Bank Annuities, and in the mean time and until the Bank Annuities shall be ordered by the said court to be sold for the purposes aforesaid, the dividends and annual produce of the said Bank Annuities shall from time to time be paid by order of the said court to the body or bodies, person or persons, who would for the time being have been entitled to the rents and profits of the said lands, tenements, or hereditaments hereby directed to be purchased, in case such purchase and settlement were made; and the lands, tenements or hereditaments so to be purchased and settled shall be subject to the rent to which the same shall be declared, as aforesaid, in the conveyance and settlement thereof, to be subject, in the same manner, to all intents and purposes, as the lands, tenements, or hereditaments taken or to be taken for the purposes of this Act, as aforesaid, were subject thereto, and the body or bodies, person or persons, to whom such rent shall be payable, shall have such and the same powers and remedies for enforcing the payment thereof, or of any part thereof, out of or upon the lands, tenements or hereditaments to be comprised in such conveyance and settlement, and declared to be subject thereto, as they, he or she would have been entitled to if such rent had originally been reserved out of or charged upon the same, instead of the lands, tenements or hereditaments to be taken for the purposes of this Act, and in the same manner, to all intents and purposes, as such rent was reserved out of or charged upon such last-mentioned lands, tenements or hereditaments, together with the other lands, tenements or hereditaments subject thereto; and in the mean time, and until such purchase shall be made, it shall be lawful for the said court, if the said court shall think proper, upon application thereto, to order any part of the dividends and annual produce of the Bank Annuities, in which the said last-mentioned money shall be invested, to be paid from time to time to the body or bodies, person or persons for the time being entitled to the said rent, in discharge thereof, or part thereof, as the case may be.

32. Power to purchase the Release of Hereditaments wanted, from Rents charged thereon, or to apportion the same.

And be it Enacted, That where any lands, tenements or hereditaments purchased or wanted, or intended to be purchased by the said Commissioners on behalf of Her Majesty, shall be subject solely or jointly with other lands, tenements or hereditaments not intended or wanted to be purchased, to or with any rent-service, rent-charge, or chief rent, or other rent, payment or incumbrance, it shall be lawful

lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, to agree for the release of the lands, tenements or hereditaments so purchased or wanted, or intended to be purchased, from such rent, payment or incumbrance, and also (where necessary or convenient) for an apportionment of such rent, payment or incumbrance for such gross sum as shall be agreed upon between the said Commissioners and the party who, under the provisions of this Act, shall agree to sell or apportion the same, and which agreement may be entered into by all persons and corporations by this Act authorized and empowered to sell or convey lands; and the monies to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase-monies on the sale of lands; and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a jury, if required, in like manner as the price of lands is by this Act directed to be settled in case of dispute as to the value thereof, which jury shall assess and determine the value of the rent, payment or incumbrance affecting the lands, tenements or hereditaments purchased or wanted or intended to be purchased, and shall also (where necessary or convenient) apportion the rent, payment or incumbrance affecting the lands, tenements or hereditaments jointly subject to rent, payment or incumbrance, as hereinbefore mentioned, according to the respective values of the lands, tenements or hereditaments purchased or wanted or intended to be purchased, and of the lands, tenements or hereditaments not purchased or wanted, or intended to be purchased by the said Commissioners; and all contracts which shall be made by and between the said Commissioners on behalf of Her Majesty and any such party as aforesaid respecting such release shall be valid and effectual in the law; and all conveyances and assurances which shall be made to Her Majesty, Her heirs and successors, respecting such releases, shall extinguish the whole or a proportionate part of such rent, payment or incumbrance (as the case may be): Provided always, That when the party entitled to such rent, payment or incumbrance shall consider the remaining part of the lands, tenements or hereditaments so jointly subject, and the same shall in fact be sufficient security for such rent, payment or incumbrance, and shall be willing to release the lands, tenements or hereditaments so purchased by the said Commissioners on behalf of Her Majesty therefrom, then and in such case it shall be lawful for the party entitled by this Act, or capacitated, to apportion such rent, payment or incumbrance, or to release the lands, tenements or hereditaments so purchased therefrom, with the consent of the owner of the lands so purchased, and also of the owner of the lands, tenements or hereditaments so

purchased as aforesaid, from the rent, payment or incumbrance so affecting the same as aforesaid, jointly with other lands, tenements or hereditaments, on condition or in consideration of such other lands, tenements or hereditaments continuing or remaining wholly and exclusively subject to the whole of such rent, payment or incumbrance: Provided also, That when any of the lands, tenements or hereditaments purchased by the said Commissioners shall be released from a part only of any rent, payment or incumbrance affecting the same jointly with other lands, tenements or hereditaments by the said Commissioners, such last-mentioned lands, tenements or hereditaments shall be charged only with the remainder of such rent, payment or incumbrance; and such apportionment shall not prejudice the title to the remaining rent or the remedies for such remainder; but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only: Provided also, That when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the said Commissioners, on tender for that purpose, by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, to endorse a memorandum on such deed or instrument, declaring what part of the lands, tenements or hereditaments only subject to such rent, payment or incumbrance shall have been purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance which shall continue payable; and such memorandum shall be evidence in all courts of the facts therein stated, but shall not exclude any other evidence of the same facts.

33. Rents on Leases to be apportioned.

And be it Enacted, That in all cases in which a part only of any lands, tenements or hereditaments comprised in any lease or agreement for lease for a term of years unexpired, or for a life or lives, or for a term determinable on a life or lives, shall be required for the purposes of this Act, the rent payable in respect of any lands, tenements or hereditaments comprised in such lease or agreement for lease shall be apportioned between the lands, tenements or hereditaments required for the purposes of this Act; and the residue of such lands, tenements and hereditaments and such apportionment shall, in case the same shall not be settled by agreement between the parties, be ascertained and settled by the verdict of a jury, if required, in like manner as the price of any lands, tenements or hereditaments to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and in case such apportionment shall be settled by agreement between the parties, such agreement shall be made with, and not be valid without, the consent and approbation of the lessor from whom such lands, tenements or hereditaments are holden or agreed to be holden; and any

person

person hereby capacitated to sell, who shall be a lessor, shall be capacitated to assent, and to bind the property in respect of such assent; and after such apportionment the tenant or lessee of the lands, tenements or hereditaments comprised in such lease or agreement for lease shall, as to all future accruing rent, be liable only to so much of the rent reserved in such lease or agreement for lease as shall have been apportioned in respect of the lands, tenements or hereditaments not required for the purposes of this Act; and the lessor of the said lands, tenements or hereditaments shall have all such and the same remedies for rent so apportioned in respect of the lands, tenements or hereditaments not required for the purposes of this Act, as before such apportionment he had or was entitled to in respect of the rent reserved or agreed to be reserved in such lease or agreement for lease; and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease or agreement for lease contained, so far as the same relate to the lands, tenements or hereditaments comprised in such lease or agreement for lease, and not required for the purposes of this Act; but the same shall, as to such last-mentioned lands, tenements or hereditaments, but not further or otherwise, continue in full force and operation.

34. Mortgagees to convey to Her Majesty.

And be it Enacted, That all bodies politic, corporate and collegiate, trustee and trustees, and all other persons having any mortgage on any lands, tenements or hereditaments which shall be required to be taken for the purposes of this Act (and whether entitled thereto in their own right or in trust for any other body or bodies, person or persons, and whether in possession of such lands, tenements or hereditaments by virtue of such mortgage or not, and whether such mortgage shall affect such lands, tenements or hereditaments solely or jointly with any other lands, tenements or hereditaments which shall be so required) shall, on payment or tender by the said Commissioners, or by any person by them authorized, of the principal money and interest due on such mortgage, and the just costs (if any) then due, together with the amount of *Six* calendar Months' interest on the said principal money, (which tender and payment the said Commissioners are hereby authorized to make, and to deduct the same from any sum agreed or directed to be paid for the estate or interest of the party or parties entitled to the equity of redemption), of and in the lands, tenements or hereditaments so mortgaged, in case the same shall be sufficient for the purpose, immediately convey, assign and transfer the respective interests of such mortgagees in the lands, tenements or hereditaments which shall be so required to The Queen's most Excellent Majesty, Her heirs and successors, or to such person as the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings

ings shall appoint; or in case such mortgagees shall have notice in writing from the said Commissioners, or from the party or parties entitled to the equity of redemption of and in the same lands, tenements or hereditaments, that they will pay off the principal money and interest which shall be due on such mortgage at the end of *Six* or less number of calendar Months, to be computed from the day of giving such notice, then at the end of *Six* or less number of calendar Months, on payment or tender by the said Commissioners of the principal and interest which would become due at the end of *Six* calendar Months from the time of giving such notice, together with any just costs then due, such mortgagees shall convey, assign and transfer their respective interests in the lands, tenements or hereditaments which shall be so required for the purposes of this Act, to The Queen's most Excellent Majesty, Her heirs and successors, or as the said Commissioners shall direct; and in case any such mortgagee shall refuse to convey, assign or transfer as aforesaid, on such payment or tender respectively as aforesaid, then on payment of such money, interest and costs into the Court of Chancery as hereinafter mentioned, all interest on every such mortgage debt, and all claim and right of every such mortgagee thereto shall thenceforth cease and determine: Provided always, That in case any such mortgagee shall, in either of the cases aforesaid, neglect or refuse to convey, assign or transfer as aforesaid, then upon payment of the principal money and interest, and the costs (if any) due on any such mortgage as aforesaid into the Bank of England, at the end of *Six* calendar Months from the time of giving such notice as aforesaid, or as soon after as possible, or in lieu of such notice, and in addition to the said other monies, of *Six* calendar Months' interest in advance for the use of such mortgagee, at any time after tender of the principal, interest and costs, and *Six* calendar Months' interest in advance as aforesaid, the Cashier of the said Bank shall give a receipt for the said money in like manner as is by this Act directed in cases of other payments into the said Bank; and thereupon, or upon such conveyance, assignment or transfer by any such mortgagee as aforesaid, all the estate, right, title, interest, use, trust, property, claim and demand of such mortgagee, and of all persons in trust for him, or for whom he shall be trustee, shall vest in The Queen's Majesty, Her heirs and successors, who shall be deemed to be in the actual possession of the premises and estate comprised in such mortgage, or so much thereof as shall be required for the purposes of this Act, to all intents and purposes whatsoever.

35. As to cases where Mortgage-money is more than the value of the Premises,

And be it Enacted, That in all cases in which any lands, tenements or hereditaments, subject to any mortgage, shall be required for the purposes of this Act, which lands, tenements or hereditaments shall be of less value than the principal monies, interest and costs

costs secured thereon, or in which a part only of the lands, tenements or hereditaments, subject to any mortgage, shall be required for the purposes of this Act, and such part shall be of less value than the principal monies, interest and costs secured on such lands, tenements or hereditaments, and the mortgagee or mortgagees thereof shall not consider the remaining part of such lands, tenements or hereditaments to be a sufficient security for the monies charged thereon, or shall not be willing to release the part required for the purposes of this Act from the principal or mortgage money, and all interest due and to become due thereon, and all costs, the value of such lands, tenements or hereditaments, or, as the case may be, of such part of the said lands, tenements or hereditaments, as shall be so required for the purposes aforesaid, and also the compensation (if any) for any damage done in respect of the parts so required, shall be settled and agreed upon by and between such mortgagee or mortgagees, and the body or bodies politic, corporate or collegiate, trustee or trustees, person or persons entitled to the equity of redemption of such lands, tenements or hereditaments, whether absolutely or for such estate as might capacitate him, her or them to convey for the purposes of this Act on the one part, and the said Commissioners on behalf of Her Majesty on the other part; and in case of any difference between them, then such value and compensation shall be determined by the verdict of a jury, in the same manner as in other cases of difference; and the amount of such value and compensation being so agreed upon or determined as aforesaid, shall be paid to such mortgagee or mortgagees in satisfaction of his, her or their claim, so far as the same will extend; and such mortgagee or mortgagees shall thereupon convey, assign and transfer all his, her or their interest in such mortgaged lands, tenements or hereditaments, the value whereof shall so have been agreed upon or determined as aforesaid; or in case of his, her or their neglecting or refusing to convey, assign or transfer as hereinbefore directed, then the amount of such value and compensation shall be paid into the Bank of England to the credit of the said mortgagee or mortgagees, as by this Act is provided in cases of a like nature; and such payment to the mortgagee or mortgagees, or into the Bank as last aforesaid, shall be accepted in satisfaction of the claim of such mortgagee or mortgagees, so far as the same will extend, and also in full discharge and exoneration of such part of the mortgaged premises as shall be so taken or used, from all principal and interest and other money due or secured thereon; and thereupon such mortgaged lands, tenements or hereditaments shall become absolutely vested in The Queen's Majesty, Her heirs and successors, who shall be deemed to be in the actual possession thereof to all intents and purposes whatsoever: Provided nevertheless, That all mortgagees shall have the same powers and remedies for recovering

or a part only of the Premises is taken.

covering or compelling payment of their mortgage-money, or the residue thereof (as the case may be), or the interest thereof respectively, upon and out of the residue of the mortgaged lands, tenements or hereditaments not required for the purposes aforesaid, as they would have had or been entitled to, for recovering or compelling payment thereof, upon or out of the whole of the lands, tenements or hereditaments originally comprised in such mortgage: Provided also, That when a part only of the lands, tenements or hereditaments (subject to any mortgage) shall have been taken for the purposes of this Act as aforesaid, and the value of the lands, tenements or hereditaments so taken shall, on the assignment or conveyance thereof to The Queen's Majesty, Her heirs and successors, have been paid to the mortgagee or mortgagees thereof in part satisfaction of his, her or their mortgage debt, a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage at the time of executing such assignment or conveyance to Her Majesty, and shall be signed by such mortgagee or mortgagees; and a copy of such memorandum shall at the same time (if required) be furnished by the said Commissioners to the person or persons so entitled, as aforesaid, to the equity of redemption of the lands, tenements or hereditaments comprised in such mortgage-deed.

36. Tenants at will, or from year to year, to quit after Notice.

And be it Enacted, That every tenant at will or lessee for a year, or any other person or persons in possession of any such lands, tenements or hereditaments, or any part thereof, which shall be purchased by virtue of this Act, or vested in Her Majesty for the purposes aforesaid, who shall have no greater interest in the premises than as tenant at will or lessee for a year, or from year to year, shall at the end of *Six* calendar Months next after notice in writing, signed by the said Commissioners, shall have been given to him, her or them, or left at the premises which are the subject of such notice, and whether such notice be given with reference to the time or times of such tenant's holding or not, quit and relinquish the said premises unto the said Commissioners, or to such person or persons as shall be by them authorized to receive possession thereof; and in case any such lessee shall be compelled to quit before the expiration of his or her term or interest in any such premises, then and in such case the said Commissioners shall give satisfaction and compensation for the loss or damage which he or she shall sustain thereby; and in case of any difference as to the amount of such satisfaction or compensation, the same shall or may be settled and ascertained by a jury, in the same manner as the sums of money to be paid for the purchase of any lands, tenements or hereditaments are hereinbefore directed to be ascertained; or if the said Commissioners and the other parties in difference shall agree, the same

may

may be settled by a reference to the award of arbitrators, to be chosen by the parties in difference, and that all and every person or persons, bodies corporate, collegiate or ecclesiastical, corporations aggregate or sole, in possession of any lands, tenements or hereditaments, or any part of any lands, tenements or hereditaments, which shall or may be purchased in pursuance of this Act by the said Commissioners, or vested in Her Majesty for any of the purposes aforesaid, shall upon tender or payment as aforesaid of such recompense or satisfaction, for any of his, her or their term, estate or interest in the premises, as shall be mutually agreed upon, or as shall be settled, ascertained and awarded by any referee or referees, or umpire, or by verdict or inquisition of a jury in manner aforesaid, quit and relinquish the said premises, so in their respective possessions, unto the said Commissioners, or to such person or persons as shall be by them authorized to receive possession of the same; and all the leases, demises, contracts and agreements whatsoever, under or by virtue whereof any such person or persons shall hold the said premises, shall, at and from the end and expiration of such *Six* calendar Months, or upon such payment or tender as aforesaid, be absolutely void and of none effect as against Her Majesty, Her heirs and successors, or the said Commissioners; and if any such tenant at will, or lessee or other person or persons, bodies corporate, collegiate or ecclesiastical, corporations aggregate or sole, as aforesaid, shall refuse or neglect to deliver up the premises in his, her or their possession at the expiration of such *Six* calendar Months, or upon such payment or tender as aforesaid, it shall be lawful for any Justice of the Peace for the county of Middlesex to issue his precept or warrant to the Constables of the said county, or any of them, or to any person or persons to be by such Justice appointed a Constable or Constables for that especial purpose, commanding and requiring such Constable or Constables, or any of them, to cause possession of the said premises to be taken, and afterwards delivered to such person or persons as shall in such precept or warrant be nominated to receive the same by such Commissioners on behalf of Her Majesty; and the said Constables and every of them are and is thereupon hereby authorized and required to cause such possession to be taken and delivered accordingly.

37. Persons authorized to sell, may refer to Arbitrators to fix the Price.

And be it Enacted, That all persons hereby capacitated to sell, and who may not agree with the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings as to the price to be paid, may, if they shall think fit, agree with the said Commissioners, on behalf of Her Majesty, to refer it to any person or persons to ascertain the amount to be paid; and every such agreement shall be in all respects binding and effectual.

38. Power to clear the Ground, and sell old Materials.

And be it Enacted, That it shall be lawful for the said Commissioners, on behalf of Her Majesty, and they are hereby empowered to pull down, or cause to be pulled down, all houses and other erections and buildings which shall be purchased by virtue of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and to level and clear the ground whereon the same shall stand, and all other the ground to be purchased by virtue of this Act, in such manner as they shall think proper, and to sell or cause to be sold the materials of the houses and other buildings to be taken down and removed pursuant to this Act; and the monies to be produced by the sale thereof, after deducting the expenses in pulling down such houses and buildings respectively, and of such sale or sales, and also the rents and profits of such tenements and hereditaments to be purchased or taken by virtue of this Act, until the same shall be pulled down or cleared, shall be applied and disposed of for or towards the purposes of this Act or of the said recited Act, or any of them.

39. Sewers or Drains to be arched over or filled up.

And be it Enacted, That it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and they are hereby empowered to cause to be arched over or filled up, all such sewers, drains and watercourses, or part or parts thereof, which shall lie and be in or near the said Park or intended Park, as shall appear to them necessary for completing the purposes of this Act, so as that no public sewer or drain, or any private drain, shall be disturbed, injured or prejudiced without another sewer or drain being made in lieu thereof, equally serviceable and convenient to the individual or neighbourhood: Provided always, That at the time of filling up any sewer or drain, or part thereof, as aforesaid, the said Commissioners shall cause to be made and built other good and sufficient sewers or drains, to be approved of by the said Commissioners of Sewers, of the same or greater size or capacity, and upon the same or lower levels than the sewers or drains which shall be filled up; and when made and completed, the said respective sewers and drains shall be under the jurisdiction, care, management and direction of the Commissioners of Sewers of the district in which the same shall be: Provided also, That if the said Commissioners of Sewers shall require any sewer or drain, or part or parts of any sewer or drain, that may be destroyed or altered under the authority of this Act, to be rebuilt or re-made of enlarged capacity, and shall give notice to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings of such desire, before such sewer or drain shall be rebuilt or re-made of such enlarged dimensions, as the said Commissioners of Sewers may require; and such Commissioners of Sewers shall bear and pay the difference in expense that may be occasioned by such enlarged capacity;

capacity; and in case any difference shall arise as to the sum to be paid by the said Commissioners of Sewers, then it shall be referred to the decision of Two Arbitrators, or, if they differ, to an Umpire to be named by the Two Arbitrators, one of such Arbitrators to be named by the said Commissioners of Sewers, and the other by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings.

40. Punishing Persons for giving false Evidence.

And be it Enacted, That all persons who, upon any examination to be taken by virtue of this Act, shall wilfully and corruptly give false evidence or otherwise forswear themselves before any jury or before any Justice of the Peace acting as such in the execution of such Act, shall and may be prosecuted for the same, and upon conviction thereof shall be subject to such and the same pains and penalties as persons guilty of wilful and corrupt Perjury are by the laws in force subject and liable to.

41. Limitation of power of purchasing Lands.

And be it Enacted, That if the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, shall not within the space of *Seven* Years, to be computed from the passing of this Act, purchase or take the lands, tenements and hereditaments, or parts thereof respectively, which they are empowered by this Act to take and use or purchase as aforesaid, then and from thenceforth the powers hereby granted to them for compulsory purchase shall cease.

42. Commissioners exempted from personal responsibility.

And be it Enacted, That nothing contained in this Act, or to be contained in any agreement, contract, lease, assignment, conveyance or other instrument entered into, made, taken or executed by the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, or any of them, in execution of the powers of this Act, or the said recited Act, shall extend to charge the persons or person of all or any of the Commissioners executing any such agreement, contract, lease, assignment, conveyance or other instrument, or the heirs, executors or administrators of the same Commissioners, or any of them, or their or any of their own proper lands, tenements, goods or chattels, with or for the performance of all or any of the covenants, conditions or agreements in the same agreement, contract, lease, assignment, conveyance or other instrument to be contained on the part of the same Commissioners, or any of them; but the amount of all sums, costs, charges, damages and expenses which shall or may be recovered in any suit or suits at law or in equity against them, the said Commissioners, or any of them, or against their or any of their heirs, executors or administrators, for or by reason or means of any

such agreement, contract, lease, assignment, conveyance or other instrument, or the covenants, conditions or agreements therein contained, and also all the costs, charges, damages and expenses which the said Commissioners, or any of them, or their or any of their heirs, executors or administrators, shall bear, pay, expend or be put to, or which shall be occasioned to them for or by reason or means of any such agreement, contract, lease, assignment, conveyance or other instrument, or any covenant, condition or agreement therein contained, or any action or actions, suit or suits, to be brought or prosecuted by or against them or any of them, thereupon shall respectively be paid and discharged by and out of the monies to be raised, arise or be received from the possessions and Land Revenues of the Crown.

43. Act to be taken as part of 4 & 5 Vict. c. 27.

And be it Enacted, That this Act shall be taken to be a part of the said recited Act of the fourth and fifth years of the reign of Her present Majesty.

44. Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

THE

THE SCHEDULE

REFERRED TO IN AND BY THIS ACT.

DESCRIPTION.	PARISH.	FREEHOLDERS OR COPYHOLDERS.	LEASEHOLDERS.	OCCUPIERS.
Grazing land, known as Bonner's Fields, south of the Bishop's-road.	- - St. Matthew, Bethnal Green.	- - Henry Clutterbuck, Esq., M. D., Henry Dickinson, Esq., Benjamin Harrison, Esq., Henry Rouse, Esq., the Rev. Thomas Whalley Wickham.	- - Trustees of Robinson's charity.	John Ridge.
No. 1, Bonner's Hall - The Bonner's Arms beer-house - - - -	- ditto - - -	- ditto - - -	- - -	Mary Salter.
No. 2, Bonner's Hall -	- ditto - - -	- ditto - - -	- - -	Ellen Bell.
No. 3, - ditto - -	- ditto - - -	- ditto - - -	- - -	Matthew Habershon.
No. 4, - ditto - -	- ditto - - -	- ditto - - -	- - -	Sarah Rodgers.
No. 5, - ditto - -	- ditto - - -	- ditto - - -	- - -	Richard Moore.
No. 6, - ditto - -	- ditto - - -	- ditto - - -	- - -	Sarah Gilbie.
Land south of the Bishop's-road.	- - St. Matthew, Bethnal Green.	Captain Charles Sotheby	John Ridge -	John Ridge.
Land north of the Bishop's-road.	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
Land, part grazing land and part a brick field, north-east of the Regent's Canal.	- - St. John, Hackney, and St. Matthew, Bethnal Green.	Captain Charles Sotheby	- ditto - -	- ditto.
Grazing land west of Grove-street-lane.	- - St. Matthew, Bethnal Green.	- - Sir James Flower, Bart., Sir James Shaw, Bart., Charles Wilson, Robert Whalley, Edward Colebatch, Alderman Thomas Johnson, Joseph Bishop, Benjamin Standring, George Wright, George Barker, John Annis, Thomas Carlisle Hayward, Richard Ellis, Joseph Colebatch, James Martin, William Christie, Thomas Cording, William Wood, Henry John White, James Richard Thompson, Edward Jones.	- - William Carter, John Ridge. - - Trustees of Sir John Cass's charity.	- ditto.
No. 1 and 2, York-place, near Valentine Corner. The Gardener's Arms beer-house and tea-gardens.	- ditto - - -	- ditto - - -	- - William Carter, John Crowfoot, William Fitch.	William Fitch.
No. 3, York-place - -	- ditto - - -	- ditto - - -	- - William Flood Minter.	Henry Warner.
No. 4, - ditto - - -	- ditto - - -	- - Sir James Flower, Bart., and 20 others, as before stated, Trustees of Sir John Cass's charity.	- ditto - -	Mary Minter.
No. 5, - ditto - - -	- ditto - - -	- ditto - - -	- ditto - -	Jonathan Higgins.
No. 6, - ditto - - -	- ditto - - -	- ditto - - -	- ditto - -	Elizabeth Howard.
No. 7, - ditto - - -	- ditto - - -	- ditto - - -	- ditto - -	- - William Flood Minter.

(*continued.*)

DESCRIPTION.	PARISH.	FREEHOLDERS OR COPYHOLDERS.	LEASEHOLDERS.	OCCUPIERS.
The Three Colts Tavern and Tea Gardens, Valentine Corner, near Grove-street, Hackney - -	-- St. Matthew, Bethnal Green.	-- Sir James Flower, Bart., and 20 others, as before stated, Trustees of Sir John Cass's charity.	-- John Davis, John William M'Nab.	-- John William M'Nab.
A dwelling-house, orchard and garden, west of Grove-street-lane.	- ditto - - -	- ditto - - -	-- John Davis, Andrew German.	Nicholas Warren.
No. 1, Valentine Corner -	- ditto - - -	- ditto - - -	John Davis -	Richard Colley.
No. 2 - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	William Runham.
No. 3 - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	Thomas Coe.
A farm-house and buildings on the west side of the Grove-road, and north of Sir George Duckett's Canal.	- ditto - - -	Thomas Coxhead Marsh	John Gardner -	John Gardner.
No. 1, King's Arms-row, Old Ford-lane.	- ditto - - -	- ditto - - -	- ditto - -	-- John Gardner, or his weekly tenants.
No. 2, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 3, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 4, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 5, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 6, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 7, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
No. 8, - ditto - -	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
A triangular piece of ground on the east side of the Grove-road, and north side of Sir George Duckett's Canal, used as a market-garden.	- ditto - - -	- ditto - - -	- ditto - -	- ditto.
Land used as a market-garden, with a tenement and barn thereon, south of Providence-row.	-- St. Matthew, Bethnal Green, and St. John, Hackney.	-- the Trustees of the Spanish and Portuguese Jews Congregation.	- - - -	John Cater.
Land used as a market-garden, with a dwelling-house and sheds thereon, north of Old Ford-lane, and west of Grove-street-lane.	- ditto - - -	William Bradshaw -	John Mandeno -	-- John Mandeno, James Byford.
A dwelling-house and garden, near Providence-row.	St. John, Hackney -	-- the Rev. Charles Carpenter, William Pinberick, Executors of the will of the late Mrs. Mary Ball.	- - - -	-- Michael Horden Peake.
Land used as garden-ground, and a tenement thereon, near Providence-row.	- ditto - - -	- ditto - - -	William Ivory -	William Ivory.
Land used as garden-ground, with a tenement thereon, north of Sir George Duckett's Canal.	-- St. Matthew, Bethnal Green.	John Ridge - -	- - - -	James Batty.
Arable land, south of Grove-street-lane.	-- St. Mary, Stratford-le-Bow, and St. John, Hackney.	- ditto - - -	- - - -	John Ridge.
Land for grazing, north of Sir George Duckett's Canal.	-- St. Mary, Stratford-le-Bow.	Sir George Duckett -	- - - -	William Eagle.

DESCRIPTION.	PARISH.	FREEHOLDERS OR COPYHOLDERS.	LEASEHOLDERS.	OCCUPIERS.
Land used as garden-ground, with a dwelling-house and sheds thereon, south of Grove-street-lane.	St. John, Hackney -	- - William Thompson, Sarah Grant, Mary Wilson.	Mary Roberts -	Mary Roberts.
Ditto - - -	-- St. John, Hackney, and St. Mary, Stratford-le-Bow.	- ditto - - -	Finley Fraser -	Finley Fraser.
Land used as garden-ground, with a dwelling-house and sheds thereon.	- ditto - - -	- ditto - - -	John Woodcock	John Woodcock.
Ditto - - -	- ditto - - -	- ditto - - -	Mary Roberts -	Mary Roberts.
Ditto - - -	- ditto - - -	- ditto - - -	Alexander Leighton	Alexander Leighton.
Land used as garden-ground, with a dwelling-house and sheds thereon, south of Grove-street-lane.	St. John, Hackney -	- ditto - - -	John Greig -	John Greig.
Land used as garden-ground, west of Old Ford-lane.	-- St. John, Hackney, and St. Mary, Stratford-le-Bow.	- ditto - - -	- - Thomas Rumball.	Thomas Rumball.
Land used as garden-ground, near Hackney Wick.	St. John, Hackney -	Samuel Mills, Esq. -	Henry Lytton -	Henry Lytton.
Land for grazing, near Hackney Wick.	- ditto - - -	Sarah Ovila - -	- - -	John Lowe.
Land used for grazing, with tenement and kiln thereon, north of Sir George Duckett's Canal.	- - St. Mary, Stratford-le-Bow.	Isaac Bird - - -	- - -	William Eagle.
Land for grazing, north of Sir George Duckett's canal, and west of Old Ford-lane.	- ditto - - -	- - The Right Hon. Charles Shaw Lefevre.	Michael Scales -	Michael Scales.

Victoria Park.

A

B I L L

To extend an Act passed in the Fourth and Fifth Years of Her present Majesty, for enabling Her Majesty's Commissioners of Woods to purchase certain Lands for Victoria Park.

(*Prepared and brought in by*
The Earl of Lincoln and Sir Thomas Fremantle.)

Ordered, by The House of Commons, *to be Printed,*
15 *March* 1842.

105.

Under 8 *oz.*

A

B I L L

To empower the Commissioners of Her Majesty's Woods to form a new Opening from the Knightsbridge Road into Hyde Park, and a new Opening from High-street, Kensington, into an intended new Road across the Palace Green; and for annexing a Piece of extra-parochial Ground in the Royal Garden to the respective Parishes of Saint Mary Abbots, Kensington, and Saint Mary, Paddington, in several Portions.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS The Queen's most Excellent Majesty, with a view to public Improvement, and the accommodation of the inhabitants of the new Squares, Streets and Places that have lately been erected and formed in the neighbourhood of Knightsbridge, in the county of Middlesex, has been graciously pleased to consent and permit that a new entrance shall be made from the Knightsbridge Road into Her Majesty's Park, called Hyde Park, subject to such regulations as Her Majesty shall from time to time approve of; and for the purpose of making such new entrance, and a suitable approach thereto, it is expedient that the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings should be empowered to purchase, take and use certain messuages, lands and tenements situate on the north side of the said Knightsbridge Road, and on the east and west sides of a certain watercourse leading from the Serpentine River to the River Thames, in the parishes of Saint Margaret, Westminster, and Saint George, Hanover-square, or one of them, in the said county of Middlesex, and to arch or cover over part of the said watercourse: Preamble.

And whereas an Act was passed in the last Session of Parliament empowering the Commissioners of Her Majesty's Woods to grant

building Leases of the Royal Kitchen Garden, and other adjoining ground, the property of Her Majesty at Kensington, described in the Schedule to the said Act; and for the purpose of enabling them to lay out such building ground upon the most approved plan, and to the best advantage, it is expedient that the said Commissioners should be empowered to form an entrance on the north side of High-street, Kensington, into an intended new Road and Carriage-way designed to be made across the ground which they are so empowered to let on building Leases as aforesaid, into the Uxbridge Road at Bayswater, and for that purpose to purchase, take and use certain messuages or tenements, with the outbuildings and appurtenances thereto belonging, together with a Brewery and other buildings at the rear thereof, situate on the north side of the High-street, Kensington, aforesaid, in the parish of Saint Margaret, Westminster, in the said county of Middlesex

And whereas there is a small triangular piece of ground, containing about three acres (part of the ground comprised in the Schedule to the said Act of last Session), over which the said intended new Road and Carriage-way will be partly formed, which lies on the confines of the several parishes of Saint Mary Abbot's, Kensington, and Saint Mary, Paddington, and is reputed to be extra-parochial, but the same has been of late claimed to belong partly to the said parish of Saint Mary Abbots, Kensington, and partly to the said parish of Saint Mary, Paddington; and in order to avoid litigation and prevent future question, it is expedient that the said piece of ground should be annexed to and form part of the said respective parishes in the several portions hereinafter mentioned, and the vestries of the said respective parishes are assenting thereto:

And whereas Maps or Plans, describing the houses, buildings, ground and premises required to be purchased, taken and used for the purposes aforesaid, under or by virtue of this Act, and a Book of Reference, containing a list of the names of the owners and occupiers of such premises, have been made, for the purpose of being deposited at the office of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall and may be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, and

1. Commissioners of Woods empowered to make Openings.

and they are hereby authorized and empowered, to make, form and complete the said several entrances, openings and improvements hereinbefore mentioned, and to carry the purposes of this Act into execution, according to such Plans as aforesaid.

2. Plans of the required Premises to remain in the custody of the Commissioners of Woods.

And be it Enacted, That the said Maps or Plans and Book of Reference, after the same shall have been authenticated by the signatures of the Lord High Treasurer, or of the Commissioners for executing the office of Lord High Treasurer, or any Three or more of them, shall be deposited with, and shall remain in the custody of, the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and shall be received in evidence for all purposes relating to this Act; and one copy thereof, so signed as aforesaid, shall be deposited at the office of Land Revenue Records and Inrolments within One Month from the passing of this Act, to the end that all persons may at all seasonable times have liberty to inspect and peruse the same, and to take extracts or copies thereof, at their will and pleasure, paying the sum of *One Shilling* for every such inspection, and at the rate of *Sixpence* for every Seventy-two words of such copies or extracts of the said Maps or Plans and Book of Reference; and the said Commissioners, in making the said purchases, alterations and improvements, shall not deviate more than Feet from the lines described in the said Maps or Plans without the consent and approbation, in writing, of the person or persons, bodies politic, corporate or collegiate, through whose lands or premises such deviation shall be made.

Copy to be deposited in the Office of Land Revenue Records and Inrolments.

3. No Houses, &c. to be taken without consent, unless mentioned in the Schedule.

Provided always, and be it Enacted, That no houses or buildings, garden or yard belonging to a house, shall be taken or made use of for the purposes of this Act, except such as are mentioned in the Schedule hereunto annexed, or as are situated within the limits of the deviation hereinbefore authorized, without the consent, in writing, of the owner or owners thereof being first had and obtained for that purpose.

4. Premises may be taken, notwithstanding Errors in Schedule.

And be it Enacted, That it shall be lawful for the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings to purchase, take down and use for the purposes of this Act, any of the houses, buildings, lands and other hereditaments, described in the said Plans to be deposited as aforesaid, as intended to be taken for the purposes of this Act, although the same houses, buildings, lands and other hereditaments, or the name or names of the owner or owners, occupier or occupiers, thereof, may happen to be erroneously stated or omitted in the Schedule hereunto annexed, in case it shall appear to any *Two* or more Justices of the Peace for the county of Middlesex, and be certified under their

hands, that such error or omission proceeded from mistake or erroneous information.

5. Power to Commissioners, their Surveyors, &c. to enter upon Houses, &c. for surveying or valuing.

And be it Enacted, That it shall be lawful for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and for their Surveyor or Surveyors, officers and workmen, from time to time, at all reasonable times, in the day-time, upon giving notice in writing, for the first time *Twenty-four* Hours', and afterwards from time to time *Twelve* Hours', previous notice to enter into and upon all or any of the said tenements and hereditaments authorized to be taken and used as aforesaid, or any of them, for the purpose of surveying or valuing the said premises without being deemed a trespasser or trespassers, and without being subject or liable to any fine, penalty or punishment on account of entering or continuing upon any part or parts of the said lands, tenements or hereditaments for the damages that shall be thereby occasioned.

6. Commissioners empowered to treat for the purchase of Houses, &c.

And be it Enacted, That it shall be lawful for the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, and they are hereby empowered, when they shall deem it necessary, by and with the consent and approbation, in writing, of the Lord High Treasurer, or the Commissioners for executing the office of Lord High Treasurer, or any Three or more of them, to treat and agree for the purchase of any lands, tenements and hereditaments which they may deem necessary for the purposes of this Act to be taken and used by them, and of any subsisting leases, terms, shares, estates and interests therein and charges thereon, or such of them, or such part or parts thereof respectively, as the said Commissioners shall think proper, and to enter into any contract or contracts which they may think fit.

7. Two Commissioners empowered to act.

And be it Enacted, That all acts, matters or things authorized or necessary to be done and executed by the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, for the purpose of carrying this Act into execution, may be done and executed by any Two of them, and the same shall be as valid and effectual, and shall have the same force and effect, as if such acts, matters and things had been done and executed by all the said Commissioners.

8. Hereditaments, &c. to be conveyed to Her Majesty.

And be it Enacted, That all hereditaments, estates and interests which may be purchased in pursuance of this Act, shall be conveyed, assigned and assured to or in trust for Her Majesty, Her heirs and successors, in such manner and form as the said Commissioners shall direct, and the same shall from thenceforth become part of the Land Revenue

Revenue of the Crown within the ordering and survey of Her Majesty's Court of Exchequer, and shall be subject to the powers and provisions of an Act passed in the tenth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to consolidate and amend the Laws relating to the Management and Improvement of His Majesty's Woods, Forests, Parks and Chases of the Land Revenue of the Crown, within the Survey of the Exchequer in England, and of the Land Revenue of the Crown in Ireland, and for extending certain Provisions relating to the same to the Isles of Man and Alderney;" and the purchase-monies for the hereditaments, estates and interests respectively so to be purchased as aforesaid, shall be paid and discharged by the said Commissioners out of monies in their hands, by the said last-mentioned Act made applicable to the purchase of lands and tenements as therein mentioned.

9. Bodies Politic, Trustees and other persons empowered to sell and convey, &c.

And be it Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, ecclesiastical or lay, aggregate or sole, and for all trustees and feoffees in trust for charitable and other purposes, and all executors and administrators, not only for and on behalf of themselves, their successors, heirs, executors and administrators respectively, but also for and on behalf of their respective cestuique trusts, whether infants, femes covert, idiots, lunatics or persons not born, or not ascertained, or any other person or persons whomsoever, and to and for all tenants for life, or for years absolute or determinable on any life or lives, and all persons having any other partial or qualified estate or interest not only for and on behalf of themselves, their heirs, executors, administrators and issue, but also for and on behalf of the person or persons entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person, or any of such persons, whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for selling or conveying the same, and to and for all guardians on behalf of their respective wards, husbands on behalf of their respective wives, committees on behalf of the persons of whose estates they shall be committees, and the heirs, executors and administrators and issue of such wards, wives or persons respectively, and to and for all femes covert entitled in their own right to any such tenements or hereditaments, or to dower, or other interest therein, on behalf not only of themselves, but also of their respective heirs, executors, administrators and issue, and also where such wards, wives, persons or femes covert respectively shall be tenants for life or in tail, or for years, or have any other partial or qualified estate or interest to and for such guardians, husbands, committees, and femes covert, on behalf of the person or persons on behalf of whom such wards, wives, persons or femes covert respectively, if of full age, unmarried and

of sound mind might have contracted for, sold and conveyed the same tenements or hereditaments, and to and for all and every other person or persons whomsoever, who are or shall be seised or possessed of or interested in any tenements or hereditaments which by the said last-named Commissioners shall be thought necessary for any of the purposes of this Act, to contract for, sell and convey the same and every or any part thereof to the QUEEN's most Excellent Majesty, Her heirs and successors, or to such person or persons as a trustee or trustees on behalf of Her Majesty, Her heirs and successors, as the said last-named Commissioners for the time being, or any Two of them, shall direct; and all contracts, agreements, bargains, sales, conveyances and assurances, acts and deeds, which shall be made by such bodies politic, corporate or collegiate, trustee or trustees, or other person or persons as aforesaid, shall be valid and effectual in law; and all bodies politic, corporate or collegiate, and all persons whomsoever contracting or conveying as aforesaid, are hereby indemnified for or in respect of any such sale which they, he or she, or any of them, shall respectively make by virtue or in pursuance of this Act.

10. Satisfaction to be made, and may be accepted.

And be it Enacted, That all and every body and bodies politic, corporate or collegiate, trustee or trustees, and other person and persons hereinbefore capacitated to contract for, sell and convey any such tenements or hereditaments as aforesaid, and any other owner or owners of any such tenements or hereditaments, or any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, may accept and receive such satisfaction and recompense for the value thereof; and such body or bodies, trustee or trustees, person or persons, owner or owners, and also any tenant or tenants, or other occupier or occupiers of any such premises entitled to any compensation for tenants' fixtures, or for any other injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between them respectively; and the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty; and in case the said Commissioners and the said parties interested in such tenements or hereditaments or fixtures, or sustaining any injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled by a jury in manner hereinafter directed.

11. Parties to deliver a statement of their Estates and Claims within

And be it Enacted, That on or before the expiration of *One* calendar Month next after notice in writing from the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works

Works and Buildings, or any Two of them, or their Agent duly authorized, of the intention to take or use any tenement or hereditament, or any part thereof, for the purposes of this Act, shall have been given to the principal officer of the body politic, corporate or collegiate, or to the person or persons who shall be the owners and occupiers, of such tenements or hereditaments, or in case he, she or they cannot be found or ascertained, left at the usual or last place or places of his, her or their abode, or with the tenant or tenants, occupier or occupiers, of the same tenement or tenements, or shall be affixed upon the same premises; and for the purposes of this Act, the owner shall be any person hereby capacitated to sell, all and every body and bodies politic, corporate and collegiate, trustee and trustees, and other person and persons seised, possessed of or interested in, or authorized by this Act to accept and receive satisfaction or recompense for, the value of the same, or any estate, share or interest therein or charge thereon, having or claiming to be entitled to any compensation for any good-will or improvements, or for fixtures, or for any injury or damage sustained on account of the execution of this Act, shall deliver or cause to be delivered to the said last-named Commissioners for the time being, by leaving the same at their office, a statement in writing of the particulars of the estate, share, interest or charge which he, she or they claim to be entitled to or to be authorized to receive in satisfaction or recompense for and of the good-will and improvements which may be lost, and of the fixtures and of the injury or damage sustained by him, her or them, and of the amount of the sum or sums of money which he, she or they may expect and be willing to receive in satisfaction or discharge for the value of such estate, share, interest or charge; and also the amount of the sum or sums of money which he, she or they may expect and be willing to receive as compensation for such good-will and improvements and fixtures, and for such injury or damage respectively.

One calendar Month after Notice.

12. If parties refuse to treat, or shall not agree, a Jury to be summoned.

And be it Enacted, That if any owners or proprietors, bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, trustees, femes covert, or any other person or persons seised, possessed of, or interested in, any houses, buildings, ground, tenements or hereditaments, or in any share or shares, estate or estates, interest or interests therein, or charge or charges thereon, which the said Commissioners, on behalf of Her Majesty, are hereby empowered to purchase, take and use for the purposes aforesaid, shall neglect or refuse to treat or shall not agree in the premises, or, by reason of absence or disability, shall be prevented from treating with the said Commissioners, or with the person or persons authorized by them for the sale and disposal of their respective estates and interests therein, or cannot be found or known, or shall not produce and evince a clear title to the premises they may be in the possession of, or to the interest they shall claim therein,

therein, to the satisfaction of the said Commissioners, then and in every or any such case the Sheriff of Middlesex, or his Under Sheriff, or in case such Sheriff or Under Sheriff shall be anywise interested in the matter in question, then some one of the Coroners of the county of Middlesex not interested therein, shall, upon the warrant of the said Commissioners, in manner hereinafter mentioned, and he or they is and are hereby required and authorized to cause it to be inquired into and ascertained upon the oaths of a Jury of *Twelve* indifferent men of the said county of Middlesex, which oaths the said Sheriff, Under Sheriff or Coroner is and are hereby empowered and required to administer, what recompense and satisfaction shall be made to such owners, occupiers or other person or persons interested, for the value of such houses, buildings, grounds, tenements or hereditaments, and of the proportionate value of the respective estates and interests of every person or persons seised or possessed thereof, or interested therein, or of or in any part thereof, and assess or award the sum or sums of money to be paid to such person or persons, party or parties respectively for the purchase of such houses, buildings, ground, tenements or hereditaments, and of such respective estates and interests therein, and also for good-will, improvements, or any injury or damage whatsoever, that may affect any such person or persons, party or parties, provided such good-will shall be estimated by what, in the opinion of such Jury, the same would have been worth in case the alterations or improvements intended by this Act had not been in contemplation; and the said Jury, in estimating such recompense and satisfaction, shall take into their consideration the increase in value of the residue of any property of which such tenements or hereditaments shall form part; and in order thereto, the said Sheriff or Coroner is and are hereby empowered and required from time to time, as occasion shall require, to summon and call before the said Jury and examine upon oath all and every person or persons whomsoever who shall be thought necessary and proper to be examined as a witness or witnesses touching or concerning the premises (which oath the said Sheriff, Under Sheriff or Coroner is and are hereby empowered to administer), and such Sheriff, Under Sheriff or Coroner respectively shall order and cause the said Jury to view the places in question, if there be occasion, and use all other lawful ways and means as well for his and their own, as for the said Jury's better information in the premises as the said Sheriff, Under Sheriff or Coroner shall think fit; and after the said Jury shall have inquired of and ascertained and settled such damage, recompense and satisfaction, the said Sheriff, Under Sheriff or Coroner shall thereupon order the sum or sums of money so assessed by the said Jury to be paid by the said Commissioners to the said owners or occupiers of, or other persons interested therein, according to such verdict or inquisition of the said Jury; which said verdict or inquisition and order, so had and made, shall be final, binding and conclusive,

conclusive, to all intents and purposes, upon and against all bodies politic, corporate or collegiate, ecclesiastical or civil, corporations aggregate or sole, as well as all other parties and persons whomsoever; and for the summoning and returning of such Jury or Juries, the said Commissioners are hereby empowered to issue their warrant or warrants to the said Sheriff, Under Sheriff or Coroner, to summon, impannel and return, in some convenient place in the said county of Middlesex, a Jury of not less than *Thirty-six* or more than *Forty-eight* honest and indifferent men, qualified according to law to be returned for trials of issues in Her Majesty's Courts of Record at Westminster, to appear before the said Sheriff, Under Sheriff or Coroner, at such time and place as in such warrant shall be appointed; and Fourteen Days' notice at the least, in writing, under the hands of the said Commissioners, or any Two of them, of the time and place at which such Jury are so required to be returned, shall be given to such owners, proprietors, occupiers, corporations, trustees or any other person or persons interested in the premises, before the time of meeting of the said Jury, by leaving such notice at the dwelling-house of such person or persons, or of the head officer of such body or bodies politic, corporate or collegiate, or with some tenant or occupier of the premises respectively intended to be valued; and the said Sheriff, Under Sheriff or Coroner is and are hereby empowered to impannel, summon and return such number accordingly, and out of the persons so impannelled, summoned and returned, or out of such of them as shall appear upon such summons, the said Sheriff, Under Sheriff or Coroner will swear, or cause to be sworn, Twelve, who shall be the Jury for the purposes aforesaid; and in default of a sufficient number of Jurymen, the said Sheriff, Under Sheriff or Coroner shall return other honest and indifferent men of standers by, or that can be speedily procured, to attend that service (being qualified as last aforesaid), to the number of *Twelve*; and it shall be lawful for all persons concerned, by themselves, their counsel, solicitors and agents, to attend and be heard, and to adduce evidence before the Sheriff, Under Sheriff or Coroner respectively, and such person shall also have their lawful challenges against any of the said Jurymen, when they come to be sworn, but shall not challenge the array.

13. Where part of an Estate is taken, the remainder is to be valued

And be it Enacted, That if the owner, lessee or occupier of any tenements or hereditaments authorized to be taken by virtue of this Act shall not be inclined to sell or part with the whole thereof, or of his or her interest in the whole thereof, and it shall not be found necessary to take the whole for the purposes of this Act, and the said parties cannot agree as to the sum of money to be paid for the part which the said Commissioners, or any person or persons authorized by them, shall not think it necessary to purchase, then and in such

case the Jury which shall be summoned to value the premises, shall assess the value of the whole premises according to the condition in which they are at the time of taking the view, and also the value of that part of the premises which will remain, after the said Commissioners, or the person or persons authorized by them, have taken away so much as they shall think necessary for the purposes of this Act; and in such last valuation the said Jury shall take into their consideration the improvement or depreciation which the remainder of the premises is likely to receive or sustain from the alteration intended to be made; and the Jury, having made these two valuations, the difference between them shall be the price to be paid by the said Commissioners on behalf of Her Majesty for that part which they shall have occasion for, and such price shall be recorded as the verdict of the Jury for the value of the same.

14. Notice to be given of Compensation claimed.

And be it Enacted, That no Jury to be summoned by virtue of this Act shall be allowed to assess or award any sum or sums of money to any body or bodies politic, corporate or collegiate, person or persons, by way of compensation for good-will or improvements alleged to have been lost, or tenants' fixtures, or any injury or damage alleged to have been sustained by him or them, by reason or means of this Act, or any thing which shall or may be done in the execution hereof, unless such a statement as hereinbefore is mentioned of the particulars of every such claim, and how and in what manner the amount thereof is made out and computed, shall have been given to the said Commissioners, or left at their office as aforesaid, by and on behalf of such person or persons, Ten Days at least before the time of the meeting of such Jury.

15. Penalty on Sheriff, Jury and Witnesses for neglect of Duty.

And be it Enacted, That if the Sheriff, Under Sheriff or Coroner so directed to summon and return a Jury as aforesaid, shall make default in the premises, he shall for every such offence forfeit and pay any sum not exceeding *Ten Pounds* to the party who shall be prejudiced or injured thereby, to be recovered with full costs of suit by action of debt or on the case in any of Her Majesty's Courts of Record at Westminster; and if any person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing, shall refuse to be sworn, or to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act, or if any person so summoned as a witness shall not appear, or appearing, refuse to be examined or to give evidence, any person so offending having no reasonable excuse to be allowed by the Justices hereinafter mentioned, shall for every such offence forfeit and pay any sum not exceeding *Ten Pounds*, which several and respective penalties shall and may be levied by virtue of any warrant under the hand and seal of one of Her Majesty's Justices of the Peace

Peace for the county of Middlesex by distress and sale of the goods and chattels of the person so offending, the person making such distress and sale rendering to him or her the overplus of the money thereby produced, if any, after such penalty, and the charges of such distress and sale shall be deducted, and all such fines shall be paid to the said Commissioners to be applied for the purposes of this Act.

16 Jury shall, if required, assess Value of Fee-simple, and then apportion Values of respective Interests therein.

And be it Enacted, That in all cases in which a verdict shall be given for the value of any tenements or hereditaments, or share or shares therein, the Jury shall, if required so to do by or on behalf of the said Commissioners, inquire of, assess and ascertain the value of the fee-simple of the entirety of the said premises, and shall afetrwards apportion and divide the value so ascertained between and among all the different shares and charges which shall be claimed, and also between different parts of the said tenements or hereditaments alleged to be held under different titles: Provided always, That the verdict of any Jury shall not defeat or prejudice any contract or sale which shall have been made of any share or charge, although the value of the same may be ascertained to be different from the amount of the price, recompense or satisfaction to be paid for the same.

17. Verdict of value of Lands and Damages to be ascertained separately.

And be it Enacted, That the Jury and Juries so to be summoned as aforesaid shall award all determinations, judgments and verdicts which they shall make and give in execution of the powers hereby vested in them concerning the value of the tenements or hereditaments, or of any share or shares, estate or estates, interest or interests therein, or any charge or charges thereon separately and distinctly from the consideration of any loss or good-will to which the occupier may personally be entitled, or any other loss or damage to be sustained by any person or persons in consequence of the execution of any of the powers of this Act, and shall distinguish the value set upon the hereditaments, or share or shares, estate or estates, interest or interests therein, charge or charges thereon, and the money assessed or adjudged for such good-will, loss or damage as aforesaid, separately and apart from each other; and when any money shall be assessed or adjudged for such good-will, loss or damage as aforesaid, the Jury shall, if required by the said Commissioners, award and declare whether the statement delivered by the claimant or claimants of the manner in which any amount of the money which shall have been demanded as a compensation for the same has been computed and made up, give sufficient particulars to enable the said Commissioners to make a proper offer.

18. Providing for Expenses of Jury.

And be it Enacted, That in case any Jury to be summoned and sworn, pursuant to the authority of this Act, shall give in a verdict or assessment for more money as a recompense, compensation or satisfaction for the rights, interests or property of the person or persons in any such houses, buildings, ground, tenements or hereditaments, or for any such good-will, improvements, injury or damage as aforesaid, than shall have been agreed to be given and offered for the same in the aggregate by the said Commissioners before the summoning and returning of such Jury, or where, by reason of absence in foreign countries, or other incapacity or disability as aforesaid, there shall not be found any person or persons legally capacitated to enter into any contract with the said Commissioners on behalf of Her Majesty, then and in every such case all the reasonable costs, charges and expenses of causing and procuring such recompense, compensation or satisfaction to be assessed by a Jury, shall be settled by the Sheriff, Under Sheriff or Coroner before whom such claim shall have been tried, and shall be paid by the said Commissioners on behalf of Her Majesty; but in every case in which any Jury so summoned and sworn as aforesaid, shall be of opinion that the statement delivered by the claimant or claimants of the manner in which any amount of money which shall have been demanded as a compensation, has been computed and made up, did not give sufficient particulars to enable the said Commissioners to make a proper offer, and in every other case in which any such Jury shall give in a verdict or assessment for no more or for less money as such recompense, compensation or satisfaction as aforesaid than shall have been agreed to and offered by the said Commissioners in the aggregate for the same before the summoning and returning of the said Jury, or in case no damages shall be given by the verdict where the dispute is for damages only, or where the causing or procuring such Jury to be summoned shall have arisen from a refusal to treat or agree with the said Commissioners by any body or bodies politic, corporate or collegiate, or by any person or persons whomsoever who is or are by the provisions of this Act or otherwise legally empowered to treat, then (except where, by reason of absence, such person shall be prevented from treating with the said Commissioners) all such costs, charges and expenses to be settled by such Sheriff, Under Sheriff or Coroner in manner aforesaid, shall be paid to the said Commissioners on behalf of Her Majesty, by the said body or bodies corporate or collegiate, or other person or persons so claiming such compensation, or refusing to treat and agree as before mentioned respectively (save only and except where by reason of absence or other like cause, any person shall have been prevented from treating or agreeing as aforesaid, in which case no costs, charges or expenses shall be allowed to either party as against the other), and all costs, charges and expenses hereby directed to be

paid

paid to the said Commissioners on behalf of Her Majesty, shall and may be deducted and retained by them out of the money so adjudged or assessed to be paid by them as so much money advanced to and for the use of the person and persons entitled to such money so adjudged, and payment or tender of the remainder of such money shall be deemed and taken to be a payment or tender of the whole sum or sums so adjudged or assessed, or in case no money, or no sufficient sum of money, shall be awarded or assessed to be paid by the said Commissioners on behalf of Her Majesty, whereout such costs, charges and expenses can be deducted, then the same shall and may be recovered by virtue of any warrant under the hand and seal of one of Her Majesty's Justices of the Peace for the county of Middlesex, by distress and sale of the goods and chattels of the person or persons liable to the payment of the same, the party making such distress and sale rendering to such person or persons as aforesaid the overplus of the money thereby produced (if any), after such costs, charges and expenses, and the charges of such distress and sale, shall be deducted.

19. Verdicts to be recorded.

And be it Enacted, That a minute or docquet of all the said judgments and verdicts shall be recorded in the office of Land Revenue Records and Inrolments, and entered in the office of the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and all such judgments and verdicts shall be afterwards deposited with the Clerk of the Peace of the said county of Middlesex, to be kept and preserved by him amongst the records of the Quarter Sessions of the said county, and shall be deemed to be records to all intents and purposes whatsoever, and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever, and all persons shall have liberty to inspect the same, paying for each such inspection the sum of *One Shilling*, and to take copies thereof, paying for every copy the sum of *Sixpence* for every Seventy-two words, and so in proportion for any less number of words.

20. Commissioners empowered to purchase the whole of Premises, if the Owners are unwilling to sell a part.

And be it Enacted, That if in any case the owner or owners of any house or building, or of any yard or curtilage occupied therewith, part only of which premises shall at any time be required by the said Commissioners to be applied for the purposes aforesaid, shall be unwilling to sell or dispose of such part only of such house, building, yard or curtilage, as shall be required by the said Commissioners, it shall be lawful for the said Commissioners, on behalf of Her Majesty, and they are hereby required, at the option of any owner or owners of any such house, building, yard or curtilage, to purchase of and from the said owner or owners the whole or such part thereof over and above such part thereof as may be wanted for the purposes of this Act, as such owner or owners shall think fit, and to apply so much and such part thereof as they the said Commissioners shall see fit for the purposes

poses aforesaid, and that if such owner or owners shall not or cannot agree with the said Commissioners for the price to be paid for the purchase of the whole of such part thereof as aforesaid, of such house, building, yard or curtilage, then the value thereof shall be settled and ascertained by a Jury, in such manner as the price for any premises to be taken in pursuance of this Act is directed to be settled and ascertained, and all such other proceedings shall take place respecting the said premises as are hereinbefore mentioned and directed with respect to the premises, the value of which shall be ascertained by a Jury in the manner aforesaid.

21. Persons holding under Leases to produce the same.

And be it Enacted, That in all cases in which any person or persons shall claim any satisfaction or compensation for or in respect of any unexpired term or interest which he, she or they shall claim to be possessed of or entitled unto in any tenements or hereditaments intended to be taken or used under the authority of this Act, under or by virtue of any demise or lease, or agreement for demise or lease, or grant thereof, the said Commissioners are hereby authorized to require such person or persons to produce or show the demise or lease, or agreement for demise or lease, or grant in respect of which such claim to satisfaction or compensation shall be made, or the best evidence thereof in his, her or their power; and if such demise or lease, or agreement for demise or lease, or grant, or such best evidence thereof as aforesaid, shall not be produced or shown within *Twenty-one* Days after demand made by the said Commissioners, or any person by them authorized, the person or persons claiming such satisfaction or compensation shall be considered and treated as holding only from year to year.

22. For settling Disputes as to Damages to a small amount.

And be it Enacted, That in case any difference shall arise between the said Commissioners and any of the owners or occupiers of the property to be taken or used for the purposes of this Act, as to the amount or value of the damages done by the said Commissioners, their agents or workmen, to such property in the execution of any of the powers of this Act, and such difference cannot be adjusted and settled between the parties, the same shall, in case the amount of damages claimed does not exceed the sum of *Fifty* Pounds, be ascertained and determined by some Two or more Justices of the Peace for the county of Middlesex, and who, upon application made to them by both or either of the said parties, shall examine into the matters in dispute, and shall determine and settle the amount of compensation which shall be payable by the said Commissioners on behalf of Her Majesty, and such Magistrates may examine witnesses and administer oaths in all respects, and with the same consequences as to false swearing, as if the same were a judicial matter brought before them on which they were by law entitled to adjudicate.

Provided

23. Commissioners not to take possession until the Purchase-monies are tendered or paid.

Provided always, and be it Enacted, That all sums of money, or other consideration, recompense or satisfaction to be made or paid pursuant to any such agreement or verdict as aforesaid, shall be paid or tendered to the party or parties entitled to the same, or into the Bank of England, as herein mentioned, before the said Commissioners, or any person or persons authorized by them, shall proceed to take possession on behalf of Her Majesty, or pull down any house or houses or other erections or buildings comprised in or affected by such agreement or verdict respectively, or to use the ground for any of the purposes of this Act.

24. Commissioners empowered to take possession on payment of Purchase-money into the Bank of England.

And be it Enacted, That if any body or bodies, person or persons seised or possessed of or interested in any such tenements or hereditaments, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, as aforesaid, cannot be found, or shall not be known or ascertained, or shall not be able to make a good title to the premises to the satisfaction of the said Commissioners, or shall refuse to execute a conveyance or conveyances thereof, then and in any of such cases, upon payment of such sum or sums of money as shall have been contracted and agreed, or shall have been assessed and awarded by any referee or referees, or by any Jury or Juries in manner aforesaid to be paid for the purchase of or for the value of the same premises, into the Bank of England, as hereinafter directed and required (in case the same shall be requisite), for the use of such person or persons so interested in or entitled as aforesaid, such tenements or hereditaments, or parts, shares, estates, interests or charges, and the fee-simple and inheritance thereof, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand in law and in equity of the body or bodies, person or persons, or unknown person or persons, to whose credit such money shall be paid into and out of the tenements, hereditaments and premises to be purchased as aforesaid, shall from thenceforth vest in the QUEEN's most Excellent Majesty, Her heirs and successors, as part or parcel of the possessions and land revenues of Her Majesty in right of the Crown, who shall be deemed in law to be in the actual seisin and possession thereof, to all intents and purposes freed and discharged from all former and other estates, rights, titles, interests, liens, claims and demands, as fully and effectually as if every body or person having any estate in the premises had actually conveyed the same by lease and release, bargain and sale enrolled, and with the assent of any protector of the settlement whose assent might be necessary, or feoffment with livery of seisin, or any other conveyance or assurance whatsoever, and such payment shall not only bar all right, title, interest, claim and demand of the body or bodies, person or persons, or unknown person or persons, of, in and to the same premises, to whose credit such payment or tender shall have been made,

but also shall extend to and be deemed and construed to bar the dower and dowers of the wife and wives of such person or persons, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue and issues of such person or persons, and every such person whomsoever, and the same premises shall and may thereupon be pulled down, made use of and employed for the purposes aforesaid, according to the direction of the said Commissioners, and under the regulations in this Act mentioned and contained.

25. Application of Purchase-money when amounting to 200 *l.*

And be it Enacted, That if any money shall be agreed or assessed to be paid for any houses, buildings, grounds, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, or for any other right, matter or interest, of what nature or kind soever purchased, taken or used by virtue of this Act, which shall belong to any body politic or corporate, or collegiate, feme covert, infant, lunatic, or other person or persons under any disability or incapacity, or not legally entitled absolutely to dispose of the premises by the sale of which such money shall be produced, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England, in the name and with the privity of the Accountant General of the Court of Chancery, to be placed to his account there ex-parte the "Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings," pursuant to the method prescribed by an Act of the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds, and Indorsements thereon, and likewise Indorsements on South Sea Bonds," and pursuant to the general rules and orders of the said Court, and without fee or reward, according to the Act of the twelfth year of the reign of his late Majesty King GEORGE the second, intituled, "An Act to empower the High Court of Chancery to lay out, on proper Securities, any Monies, not exceeding a Sum therein limited, out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant General of the said Court," and such monies shall remain so deposited until the same be applied under the direction and with the approbation of the said Court, to be signified by an order mae u pon petition to be preferred in a summary way by the body or bodies, person or persons, who would have been entitled to the rents and profits of the said houses, buildings, ground, tenements or hereditaments in the purchase or redemption of the land-tax, or towards the discharge of any debt or debts, or such other incumbrances,

or part thereof, as the said Court shall authorize to be paid, affecting the same houses, buildings, ground, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, or interests therein, or charge or charges thereon, or affecting other houses, buildings, ground, tenements or hereditaments, standing settled therewith to the same or the like uses, trusts, intents or purposes, or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of other messuages, lands, tenements or hereditaments which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the hereditaments which shall be so purchased, taken or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing and undetermined and capable of taking effect, and in the meantime and until such purchase shall be made, the said money shall, by order of the said Court, upon application, thereto, be invested by the said Accountant General in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum Reduced Bank Annuities, and in the meantime and until the Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said Court to the body or bodies, person or persons, who would for the time being have been entitled to the rents and profits of the houss, buildings, ground, tenements and hereditaments so hereby directed to be purchased, in case such purchases or settlement were made.

26. When less than 200*l.* and amounting to 20*l.*

Provided also, and be it Enacted, That if any houses, buildings, grounds, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests therein, or charge or charges thereon, purchased, taken or used for the purposes aforesaid, belonging to any corporation, or to any person or persons under disability or incapacity, as aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the body or bodies, person or persons, for the time being entitled to the rents and profits of the hereditaments, or parts, shares, estates, interests or charges, so purchased, taken or used, or of his, her or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of England, in the name and with the privity of the said Accountant General to the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid, at the like option, to Two or more trustees, to be nominated by the body or bodies, person or persons, making such option, and approved of by the said Commissioners,

sioners, such nomination and approbation to be signified in writing under the hands and seals of the nominating and approving parties, in order that such principal money, and the dividends arising thereon, may be applied in manner hereinbefore directed, so far as the case may be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

27. When less than 20 *l.*

Provided always, and be it Enacted, That where such money so agreed or assessed to be paid, as hereinbefore mentioned, shall be less than Twenty Pounds, then and in all such cases the same shall be applied to the use of the body or bodies, person or persons, who would for the time being have been entitled to the rents and profits of the hereditaments, parts, shares, estates, interests and charges, so purchased, taken or used, for the purposes of this Act, in such manner as the said Commissioners shall think fit, or in case of the infancy or lunacy of such person or persons, then such money shall be paid to his, her or their guardian or guardians, committee or committees, to and for the use and benefit of such person or persons so entitled respectively.

28. In case of not making out Titles.

And be it Enacted, That in case the body or bodies, person or persons, to whom any sum or sums of money shall be agreed to be paid, or shall be awarded by any referee or referees, or umpire, or by any Jury or Juries, for the purchase of any tenements or hereditaments, or any parts, shares, estates or interests therein, or charge thereon, to be purchased, taken or used by virtue of this Act, shall not be able to make a good title to the premises to the satisfaction of the said Commissioners, or shall refuse to execute a conveyance or assignment thereof, or in case the person or persons to whom such sum or sums of money shall be so agreed or awarded to be paid as aforesaid cannot be found, or if the person or persons entitled to such houses, buildings, ground, tenements or hereditaments, parts, shares, estates, interests or charges, be not known or discovered, then and in every such case it shall be lawful for the said Commissioners to pay the said sum or sums of money so awarded or agreed to be paid as aforesaid into the Bank of England, in the name and with the privity of the Accountant General of the said Court of Chancery, to be placed to his account to the credit of the party or parties, if known, who shall be interested in the said tenements or hereditaments, parts, shares, estates, interest or charges (describing such tenements or hereditaments), but if such party or parties shall not be known, then to the credit of the said Commissioners, subject to the order, control or disposition of the said Court of Chancery, which said Court, on the application of any body or bodies, person or persons, making claim to any such sum or sums of money, or any part thereof, by motion or petition, shall be and the same is hereby empowered, in a summary way of proceeding or otherwise, as to the same Court shall seem meet,

to

to order the same to be laid out and invested in the public Funds, or to order distribution thereof, or payment of the dividends thereof, according to the respective estate or estates, title or interest of the body or bodies, person or persons, making claim thereunto, and to make such other order in the premises as to the said Court shall seem just and reasonable, and the cashier or cashiers of the Bank of England who shall receive such sum or sums of money is and are hereby required to give a receipt or receipts for such sum or sums of money, mentioning and specifying for what the same is or are received, to such person or persons as shall pay any such sum or sums of money into the Bank as aforesaid.

29. Where any question shall arise, the person in possession shall be deemed entitled until the contrary be shown.

Provided always, and be it Enacted, That where any question shall arise touching the title of any body or bodies, person or persons, to any money to be paid into the Bank of England in the name and with the privity of the Accountant General of the Court of Chancery, in pursuance of this Act, for the purchase of any houses, buildings, ground, tenements or hereditaments, or part or parts thereof, or of any estate, right, title, charge or interest in, to and upon any tenements or hereditaments to be purchased or taken in pursuance of this Act, or to any Bank Annuities to be purchased with any such money, or to the dividends of any such Bank Annuities, the body or bodies, person or persons, who shall have been in possession of such houses, buildings, ground, tenements or hereditaments, parts, shares, estates, interests or charges, at the time of such purchase, and all body or bodies, person or persons, claiming under such body or bodies, person or persons, shall be deemed and taken to have been lawfully entitled to such houses, buildings, ground, tenements and hereditaments, parts, shares, estates, interest or charges, according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Chancery, and the dividends or interest of the Bank Annuities to be purchased with such money, and also the capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said Court that such possession was a wrongful possession, and that some other person or persons was or were lawfully entitled to such houses, buildings, ground, tenements or hereditaments, or part or parts thereof, or to some estate or interest therein, or charge thereon.

30. Court may order Expenses of Purchases to be paid by the Commissioners.

Provided also, and be it Enacted, That where by reason of any disability or incapacity of the body or bodies, trustee or trustees, corporation, or other person or persons, entitled to any houses, buildings, ground, tenements or hereditaments, or part or parts thereof, or share or shares, estate or estates, interest or interests, therein, or charge or charges thereon, to be purchased or taken under the authority of this Act, the purchase-money for the same shall be required to be paid into

into the Bank of England, in the name and with the privity of the Accountant General of the Court of Chancery, and to be applied in the purchase of other lands, tenements or hereditaments, to be settled to the like uses, in pursuance of this Act, it shall be lawful for the said Court to order so much of the expenses of any purchase to be made in pursuance of this Act as the said Court shall deem reasonable to be paid by the said Commissioners, who shall pay the same out of the monies applicable to the purposes of this Act, as the said Court shall direct.

31. When the Title is defective, by reason of a Rent payable out of other Estates, as well as Hereditaments required for the purposes of this Act, the Money paid into the Bank to be laid out in the Purchase of other Estates, which shall be subject to the Rent in the same manner.

And be it Enacted, That where the money awarded to be paid for any tenements or hereditaments which shall be taken for the purposes of this Act, shall be paid into the Bank of England in manner hereinbefore directed, in consequence of a good title not having been made to such tenements or hereditaments to the satisfaction of the said Commissioners, or any person or persons authorized by them, by reason of the same tenements or hereditaments respectively being subject, together with other hereditaments not required for the purposes of this Act, to a rent payable to some body or bodies politic, corporate or collegiate, person or persons, unable or unwilling to release therefrom the tenements or hereditaments so to be taken, then and in every or any such case the tenements or hereditaments, for the value of which the money to be paid into the Bank, together with the money (if any) to be retained for costs and charges under the authority of this Act, shall be assessed and be awarded to be paid, shall be and are hereby released and for ever discharged from such rent, and all claims and demands in respect thereof, and the money to be paid into the Bank of England shall be laid out and invested, under the direction and with the approbation of the Court of Chancery, to be signified by an order made upon a petition, to be preferred in a summary way, by the body or bodies, person or persons, who would have been entitled to the rents and profits of the tenements and hereditaments, for the value of which such monies respectively shall have been paid as aforesaid, in the purchase of other tenements or hereditaments, which shall be conveyed and settled (subject, together with such other tenements or hereditaments, to such rent) to the like uses, trusts, intents and purposes, and in the same manner as the tenements or hereditaments so to be taken as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such purchase shall be made, the said money shall, by order of the said Court, upon application thereto, be invested by the Accountant General of the said Court in his name, in the purchase of Three Pounds per Centum Consolidated or Three Pounds per Centum Reduced Bank Annuities; and in the meantime and until the Bank Annuities shall be ordered

ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Bank Annuities shall from time to time be paid, by order of the said Court, to the body or bodies, person or persons, who would for the time being have been entitled to the rents and profits of the said tenements or hereditaments hereby directed to be purchased in case such purchase and settlement were made, and the tenements or hereditaments so to be purchased and settled, shall be subject to the rent to which the same shall be declared as aforesaid in the conveyance and settlement thereof to be subject in the same manner to all intents and purposes as the tenements or hereditaments taken, or to be taken, for the purposes of this Act as aforesaid were subject thereto; and the body or bodies, person or persons, to whom such rent shall be payable, shall have such and the same powers and remedies for enforcing the payment thereof, or of any part thereof, out of or upon the tenements or hereditaments to be comprised in such conveyance and settlement, and declared to be subject thereto, as they, he or she would have been entitled to if such rent had originally been reserved out of or charged upon the same, instead of the tenements or hereditaments to be taken for the purposes of this Act, and in the same manner to all intents and purposes as such rent was reserved out of or charged upon such last-mentioned tenements or hereditaments, together with the other tenements or hereditaments subject thereto; and in the meantime and until such purchase shall be made, it shall be lawful for the said Court, if the said Court shall think proper, upon application thereto, to order any part of the dividends and annual produce of the Bank Annuities in which the said last-mentioned money shall be invested, to be paid from time to time to the body or bodies, person or persons, for the time being entitled to the said rent in discharge thereof, or part thereof, as the case may be.

32. Power to purchase the Release of Hereditaments wanted from Rents charged thereon, or to apportion the same.

And be it Enacted, That where any tenements or hereditaments purchased, or wanted or intended to be purchased, by the said Commissioners on behalf of Her Majesty shall be subject solely, or jointly with other tenements or hereditaments not intended or wanted to be purchased, to or with any rent-service, rent-charge or chief rent, or other rent, payment or incumbrance, it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, to agree for the release of the tenements or hereditaments so purchased, or wanted or intended to be purchased, from such rent, payment or incumbrance, and also (where necessary or convenient) for an apportionment of such rent, payment or incumbrance, for such gross sum as shall be agreed upon between the said Commissioners and the party who, under the provisions of this Act, shall agree to sell or apportion the same, and which agreement may be entered into by all persons and corporations by this Act authorized

authorized and empowered to sell or convey lands, and the monies to be paid shall be paid and applied in manner hereinbefore directed with regard to the purchase-monies on the sale of lands; and in case any difference shall arise respecting the value of such rent, payment or incumbrance, or respecting the apportionment thereof, the same shall be determined by a Jury, if required, in like manner as the price of lands is by this Act directed to be settled in case of dispute as to the value thereof, which Jury shall assess and determine the value of the rent, payment or incumbrance affecting the tenements or hereditaments purchased, or wanted or intended to be purchased, and shall also (where necessary or convenient) apportion the rent, payment or incumbrance affecting the tenements or hereditaments jointly subject to rent, payment or incumbrance as hereinbefore mentioned, according to the respective values of the tenements or hereditaments purchased or wanted, or intended to be purchased, and of the tenements or hereditaments not purchased or wanted, or intended to be purchased, by the said Commissioners; and all contracts which shall be made by and between the said Commissioners on behalf of Her Majesty and any such party as aforesaid respecting such release, shall be valid and effectual in the law; and all conveyances and assurances which shall be made to Her Majesty, Her heirs and successors, respecting such release, shall extinguish the whole or a proportionate part of such rent, payment or incumbrance (as the case may be): Provided always, That where the party entitled to such rent, payment or incumbrance shall consider the remaining part of the tenements or hereditaments so jointly subject, and the same shall in fact be a sufficient security for such rent, payment or incumbrance, and shall be willing to release the tenements or hereditaments so purchased by the said Commissioners on behalf of Her Majesty therefrom, then and in such case it shall be lawful for the party entitled by this Act, or capacitated to apportion such rent, payment or incumbrance, or to release the tenements or hereditaments so purchased therefrom (with the consent of the owner of the land so purchased, and also of the owner of the tenements or hereditaments so jointly subject as aforesaid) to release the tenements or hereditaments so purchased as aforesaid, from the rent, payment or incumbrance affecting the same as aforesaid, jointly with other tenements or hereditaments, on condition or in consideration of such other tenements or hereditaments continuing or remaining wholly and exclusively subject to such rent, payment or incumbrance: Provided also, That when any of the tenements or hereditaments purchased by the said Commissioners shall be released from a part only of any rent, payment or incumbrance affecting the same jointly with other tenements or hereditaments by the said Commissioners, such last-mentioned tenements or hereditaments shall be charged only with the remainder of such rent, payment or incumbrance, and such apportionment shall not prejudice the

the title to the remaining rent, or the remedies for such remainder, but the same shall at all times thereafter remain as effectual as if the lands not so purchased had been originally charged with that amount only: Provided also, That when a part of any rent, payment or incumbrance shall be released, it shall be lawful for the said Commissioners, on tender for that purpose by any deed or instrument creating or transferring the remainder of such rent, payment or incumbrance, to indorse a memorandum on such deed or instrument, declaring what part of the tenements or hereditaments only subject to such rent, payment or incumbrance shall have been purchased by virtue of this Act, and what proportion of the said rent, payment or incumbrance shall have been released, and also declaring the amount of the rent, payment or incumbrance which shall continue payable, and such memorandum shall be evidence in all Courts of the facts therein stated, but shall not exclude any other evidence of the facts.

33. Rents on Leases to be apportioned.

And be it Enacted, That in all cases in which a part only of any tenements or hereditaments comprised in any lease, or agreement for lease, for a term of years unexpired, or for a life or lives, or for a term determinable on a life or lives, shall be required for the purposes of this Act, the rent payable in respect of any tenements or hereditaments comprised in such lease, or agreement for lease, shall be apportioned between the tenements or hereditaments required for the purposes of this Act; and the residue of such tenements and hereditaments, and such apportionment, shall, in case the same shall not be settled by agreement between the parties, be ascertained and settled by the verdict of a Jury, if required, in like manner as the price of any tenements or hereditaments to be taken in pursuance of this Act is directed to be settled in case of dispute as to the value thereof; and in case such apportionment shall be settled by agreement between the parties, such agreement shall be made with and shall not be valid without the consent and approbation of the lessor from whom such tenements or hereditaments are holden, or agreed to be holden; and any person hereby capacitated to sell, who shall be a lessor, shall be capacitated to assent and to bind the property in respect of such assent; and after such apportionment, the tenant or lessee of the tenements or hereditaments comprised in such lease, or agreement for lease, shall, as to all future accruing rent, be liable only to so much of the rent reserved in such lease, or agreement for lease, as shall have been apportioned in respect of the tenements or hereditaments not required for the purposes of this Act; and the lessor of the said tenements or hereditaments shall have all such and the same remedies for the rent so apportioned in respect of the tenements or hereditaments not required for the purposes of this Act as before such apportionment he had or was entitled to in respect of the rent reserved, or agreed to be reserved, in such lease, or agreement for lease,

lease, and such apportionment shall not prejudice or affect any of the covenants, conditions or agreements in such lease, or agreement for lease, contained, so far as the same relate to the tenements or hereditaments comprised in such lease, or agreement for lease, and not required for the purposes of this Act, but the same shall, as to such last-mentioned tenements or hereditaments, but not farther or otherwise, continue in full force and operation.

34. Mortgagees to convey to Her Majesty.

And be it Enacted, That all bodies politic, corporate and collegiate, trustee and trustees, and all other persons having any mortgage on any tenements or hereditaments which shall be required to be taken for the purposes of this Act (and whether entitled thereto in their own right, or in trust for any other body or bodies, person or persons, and whether in possession of such tenements or hereditaments by virtue of such mortgage or not, and whether such mortgage shall affect such tenements or hereditaments solely or jointly with any other tenements or hereditaments which shall be so required), shall, on payment or tender by the said Commissioners, or by any person by them authorized, of the principal money and interest due on such mortgage, and the just costs (if any) then due, together with the amount of *Six* calendar Months' interest on the said principal money (which tender and payment the said Commissioners are hereby authorized to make, and to deduct the same from any sum agreed or directed to be paid for the estate or interest of the party or parties entitled to the equity of redemption), of and in the tenements or hereditaments so mortgaged, in case the same shall be sufficient for the purpose, immediately convey, assign and transfer the respective interests of such mortgages in the tenements or hereditaments which shall be so required to the QUEEN's most Excellent Majesty, Her heirs or successors, or to such person as the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings shall appoint, or in case such mortgagees shall have notice in writing from the said Commissioners, or from the party or parties entitled to the equity of redemption of and in the same tenements or hereditaments, that they will pay off the principal money and interest which shall be due on such mortgage at the end of *Six* or less number of calendar Months, to be computed from the day of giving such notice, then at the end of *Six* or less number of calendar Months, on payment or tender by the said Commissioners of the principal money and interest which would become due at the end of *Six* calendar Months from the time of giving such notice, together with any just costs then due, such mortgagees shall convey, assign and transfer their respective interests in the tenements or hereditaments which shall be so required for the purposes of this Act to the QUEEN's most Excellent Majesty, Her heirs and successors, or as the said Commissioners shall direct; and in case any such mortgagee shall refuse to convey, assign

or

or transfer as aforesaid, on such payment or tender respectively as aforesaid, then, on payment of such money, interest and costs into the Court of Chancery as hereinafter mentioned, all interest on every such mortgage debt, and all claim and right of every such mortgagee thereto, shall thenceforth cease and determine: Provided always, That in case any such mortgagee shall, in either of the cases aforesaid, neglect or refuse to convey, assign or transfer, as aforesaid, then, upon payment of the principal money and interest, and the costs (if any) due on any such mortgage as aforesaid into the Bank of England, at the end of *Six* calendar Months from the day of giving such notice as aforesaid, or as soon after as possible, or, in lieu of such notice, and in addition to the said other monies of *Six* calendar Months' interest in advance, for the use of such mortgagee, at any time after tender of the principal, interest and costs, and *Six* calendar Months' interest in advance as aforesaid, the cashier of the said Bank shall give a receipt for the said money, in like manner as is by this Act directed in cases of other payments into the said Bank, and thereupon, or upon such conveyance, assignment or transfer, by any such mortgagee as aforesaid, all the estate, right, title, interest, use, trust, property, claim and demand, of such mortgagee, and of all persons in trust for him, or for whom he shall be trustee, shall vest in the QUEEN's Majesty, Her heirs and successors, who shall be deemed to be in the actual possession of the premises and estate comprised in such mortgage, or so much thereof as shall be required for the purposes of this Act, to all intents and purposes whatsoever.

35. As to cases where Mortgage-money is more than the value of the Premises, or a part only of the Premises is taken.

And be it Enacted, That in all cases in which any tenements or hereditaments, subject to any mortgage, shall be required for the purposes of this Act, which tenements or hereditaments shall be of less value than the principal monies, interest and costs, secured thereon, or in which a part only of the tenements or hereditaments, subject to any mortgage, shall be required for the purposes of this Act, and such part shall be of less value than the principal monies, interest and costs secured on such tenements or hereditaments, and the mortgagee or mortgagees thereof shall not consider the remaining part of such tenements or hereditaments to be a sufficient security for the money charged thereon, or shall not be willing to release the part required for the purposes of this Act from the principal or mortgage money, and all interest due and to become due thereon, and all costs, the value of such tenements or hereditaments, or, as the case may be, of such part of the said tenements or hereditaments as shall be so required for the purposes aforesaid, and also the compensation (if any) for any damage done in respect of the parts so required, shall be settled and agreed upon by and between such mortgagee or mortgagees, and the body or bodies politic, corporate or collegiate, trustee or trustees, person or persons, entitled to the equity of redemption of such tenements or hereditaments, whether absolutely

or for such estate as might capacitate him, her or them to convey for the purposes of this Act on the one part, and the said Commissioners on behalf of Her Majesty on the other part, and in case of any difference between them, then such value and compensation shall be determined by the verdict of a Jury, in the same manner as in other cases of difference; and the amount of such value and compensation, being so agreed upon or determined as aforesaid, shall be paid to such mortgagee or mortgagees in satisfaction of his, her or their claim, so far as the same will extend, and such mortgagee or mortgagees shall thereupon convey, assign and transfer all his, her or their interest in such mortgaged tenements or hereditaments, the value whereof shall so have been agreed upon or determined as aforesaid, or in case of his, her or their neglecting or refusing to convey, assign or transfer, as hereinbefore directed, then the amount of such value and compensation shall be paid into the Bank of England to the credit of the said mortgagee or mortgagees, as by this Act is provided in cases of a like nature, and such payment to the mortgagee or mortgagees, or into the Bank as last aforesaid, shall be accepted in satisfaction of the claim of such mortgagee or mortgagees so far as the same will extend, and also in full discharge and exoneration of such part of the mortgaged premises as shall be so taken or used from all principal and interest and other money due or secured thereon; and thereupon such mortgaged tenements or hereditaments shall become absolutely vested in the QUEEN's Majesty, Her heirs and successors, who shall be deemed to be in the actual possession thereof, to all intents and purposes whatsoever: Provided nevertheless, That all mortgagees shall have the same powers and remedies for recovering or compelling payment of their mortgage money, or the residue thereof (as the case may be), or the interest thereof respectively, upon and out of the residue of the mortgaged tenements or hereditaments not required for the purposes aforesaid, as they would have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the tenements or hereditaments originally comprised in such mortgage: Provided also, That when a part only of the tenements or hereditaments (subject to any mortgage) shall have been taken for the purposes of this Act as aforesaid, and the value of the tenements or hereditaments so taken shall, on the assignment or conveyance thereof to the QUEEN's Majesty, Her heirs and successors, have been paid to the mortgagee or mortgagees thereof, in part satisfaction of his, her or their mortgage debt, a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage, at the time of executing such assignment or conveyance to Her Majesty, and shall be signed by such mortgagee or mortgagees, and a copy of such memorandum shall at the same time (if required) be furnished by the said Commissioners to the person or persons so entitled as aforesaid to the equity of redemption of the tenements or hereditaments comprised in such mortgage deed.

And

36. Tenants at will, or from year to year, to quit after Notice.

And be it Enacted, That every tenant at will, or lessee for a year, or any other person or persons in possession of any such houses, buildings, ground, tenements or hereditaments, or any part thereof, which shall be purchased by virtue of this Act, or vested in Her Majesty for the purposes aforesaid, who shall have no greater interest in the premises than as tenant at will, or lessee for a year, or from year to year, shall, at the end of *Six* calendar Months next after notice in writing, signed by the said Commissioners, shall have been given to him, her or them, or left at the premises which are the subject of such notice, and whether such notice be given with reference to the time or times of such tenant's holding or not, quit and relinquish the said premises unto the said Commissioners, or to such person or persons as shall be by them authorized to receive possession thereof, and in case any such lessee shall be compelled to quit before the expiration of his or her term or interest in any such premises, then and in such case the said Commissioners shall give satisfaction and compensation for the loss or damage which he or she shall sustain thereby; and in case of any difference as to the amount of such satisfaction or compensation, the same shall or may be settled and ascertained by a Jury, in the same manner as the sums of money to be paid for the purchase of any ground or hereditaments are hereinbefore directed to be ascertained, or, if the said Commissioners and the other parties in difference shall agree, the same may be settled by a reference to the award of arbitrators to be chosen by the parties in difference; and that all and every person or persons, bodies corporate, collegiate or ecclesiastical, corporations aggregate or sole, in possession of any houses, buildings, grounds, tenements or hereditaments, or any part of any houses, buildings, ground, tenements or hereditaments, which shall or may be purchased in pursuance of this Act by the said Commissioners, or vested in Her Majesty for any of the purposes aforesaid, shall, upon tender or payment as aforesaid of such recompense or satisfaction for any of his, her or their term, estate or interest, in the premises as shall be mutually agreed upon, or as shall be settled, ascertained and awarded by any referee or referees, or umpire, or by verdict or inquisition of a Jury in manner aforesaid, quit and relinquish the said premises so in their respective possessions unto the said Commissioners, or to such person or persons as shall be by them authorized to receive possession of the same, and all the leases, demises, contracts and agreements whatsoever under or by virtue whereof any such person or persons shall hold the said premises, shall at and from the end and expiration of such *Six* calendar Months, or upon such payment or tender as aforesaid, be absolutely void and of none effect as against Her Majesty, Her heirs and successors, or the said Commissioners; and if any such tenant at will, or lessee, or other person or persons, bodies corporate, collegiate or ecclesiastical, corporations aggregate or sole, as aforesaid,

said, shall refuse or neglect to deliver up the premises in his, her or their possession at the expiration of such *Six* calendar Months, or upon such payment or tender as aforesaid, it shall be lawful for any Justice of the Peace for the county of Middlesex to issue his precept or warrant to the constables of the said county, or any of them, or to any person or persons to be by such Justice appointed a constable or constables for that especial purpose, commanding and requiring such constable or constables, or any of them, to cause possession of the said premises to be taken and afterwards delivered to such person or persons as shall in such precept or warrant be nominated to receive the same by such Commissioners on behalf of Her Majesty, and the said constables and every of them are and is thereupon hereby authorized and required to cause such possession to be taken and delivered accordingly.

37. Persons authorized to sell, may refer to Arbitrators to fix the Price.

And be it Enacted, That all persons hereby capacitated to sell, and who may not agree with the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, as to the price to be paid, may, if they shall think fit, agree with the said Commissioners on behalf of Her Majesty to refer it to any person or persons to ascertain the amount to be paid, and every such agreement shall be in all respects binding and effectual.

38. Power to clear the Ground and sell old Materials.

And be it Enacted, That it shall be lawful for the said Commissioners on behalf of Her Majesty and they are hereby empowered to pull down, or cause to be pulled down, all houses and other erections and buildings which shall be purchased by virtue of this Act, or such of them, or such part thereof, as they shall think proper to be pulled down, and to level and clear the ground whereon the same shall stand, and all other the ground to be purchased by virtue of this Act, in such manner as they shall think proper, and to sell or cause to be sold the materials of the houses and other buildings to be taken down and removed pursuant to this Act; and the monies to be produced by the sale thereof, after deducting the expenses of pulling down such houses and buildings respectively, and of such sale or sales, and also the rents and profits of such tenements and hereditaments to be purchased or taken by virtue of this Act, until the same shall be pulled down or cleared, shall be applied or disposed of for or towards the purposes of this Act, or any of them.

39. Punishing Persons for giving false Evidence.

And be it Enacted, That all persons who, upon any examination to be taken by virtue of this Act, shall wilfully and corruptly give false evidence, or otherwise forswear themselves, before any Jury or before any Justice of the Peace acting as such in the execution of such Act, shall and may be prosecuted for the same, and, upon conviction thereof, shall be subject to such and the same pains and penalties

penalties as persons guilty of wilful and corrupt Perjury are by the laws in force subject and liable to.

40. Sewers or Drains to be arched over, or filled up.

And be it Enacted, That it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and they are hereby authorized and empowered to cause to be arched over in such manner as they shall think proper, so much and such part of the said watercourse leading from the Serpentine River to the River Thames as they shall think requisite and necessary for the purpose of constructing over the same the said intended new entrance into Hyde Park, and the approach thereto from the Knightsbridge Road aforesaid, and also to fill in all such other sewers and drains, or part or parts thereof, which shall lie and be in or near the said several entrances, roads or ways to be made as aforesaid, as shall appear necessary for completing the purposes of this Act, so as that no public sewer or drain whatsoever, or any private drain, shall be in anywise disturbed, injured or prejudiced without another sewer or drain being made in lieu thereof, equally serviceable and convenient to the individual or neighbourhood: Provided always, That at the time of filling up any sewer or drain, or part thereof, as aforesaid, the said Commissioners shall cause to be made and built other good and sufficient sewers and drains, to be approved by the Commissioners of Sewers, of the same or greater size or capacity, and upon the same or lower levels than the sewers or drains which shall be filled up; and, when made and completed, the said respective sewers and drains shall be under the jurisdiction, care, management and direction of the Commissioners of Sewers of the district in which the same shall be: Provided also, That in case the said Commissioners of Sewers shall require any sewer or drain, or any part or parts of any sewer or drain, that may be destroyed or altered under the authority of this Act, to be rebuilt or remade of enlarged capacity, and shall give notice to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, of such desire, before such sewer or drain shall be begun to be rebuilt or altered, then and in every such case such sewer or drain shall be rebuilt or remade of such enlarged dimensions as the said Commissioners of Sewers may require, and such Commissioners of Sewers shall bear and pay the difference in expense that may be occasioned by such enlarged capacity; and in case any difference shall arise as to the sum to be paid by the said Commissioners of Sewers, then it shall be referred to the decision of Two Arbitrators, or, if they differ, to an Umpire, to be named by the Two Arbitrators, one of such Arbitrators to be named by the said Commissioners of Sewers, and the other by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings.

41. Extra-parochial Ground assigned in Portions to the Parishes of Kensington and Paddington.

And be it Enacted, That from and after the making and completion of the said intended new Road and Carriage-way over the said triangular piece of ground described in this Act as containing about Three acres, lying on the confines of the several parishes of Saint Mary Abbots, Kensington, and Saint Mary, Paddington, and reputed to be extra-parochial, a line drawn lengthwise along the centre of the said Road and Carriage-way shall, to the extent of the said piece of ground, be the boundary line between the said respective parishes of Saint Mary Abbots, Kensington, and Saint Mary, Paddington, and so much and such part of the said piece of ground as will lie on the western side of the said boundary line shall be and be deemed for all intents and purposes an integral part of the said parish of Saint Mary Abbots, Kensington, and so much and such part thereof as shall lie on the eastern side of the said boundary line shall be and be deemed for all intents and purposes an integral part of the said parish of Saint Mary, Paddington, in the said county of Middlesex.

42. Saving the Rights of Commissioners of Sewers.

Provided always, and be it Enacted, That nothing in this Act contained shall prejudice, diminish, alter, limit, interfere with, take away, control or suspend, or be held or construed to prejudice, diminish, alter, limit, interfere with, take away, control or suspend, any of the rights, privileges, jurisdictions, powers and authorities vested in or belonging to the Commissioners of Sewers for the city and liberty of Westminster and part of the county of Middlesex, other than such as are expressly controlled or suspended by this Act, but that all such rights, privileges, jurisdictions, powers and authorities other than as aforesaid shall be as good, valid and effectual as if this Act had not been passed.

43. Public Act.

And be it further Enacted, That this Act shall be deemed to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

THE

THE SCHEDULE

To which this ACT refers.

PREMISES.	PARISH.	FREEHOLDERS.	LEASEHOLDERS.	OCCUPIERS.
Knightsbridge Opening.				
Vacant ground, &c. west of the sewer.	- - Saint Margaret, Westminster.	The Crown - -	Thomas Cubitt - -	Thomas Cubitt.
No. 25, Park side, Knightsbridge.	- - Saint George, Hanover-square.	- ditto - -	- - Frances Mary Anne Blood, Thomas and James Goding.	James Sanders.
No. 24, ditto - - -	- ditto - -	- - ditto, and the Dean and Chapter of Westminster.	- ditto - - - -	Joseph Sims.
No. 24, ditto, Ticket House.	- ditto - -	- ditto - -	- ditto - - - -	Lewis Levi.
No. 23, ditto - -	- ditto - -	- ditto - -	- ditto - - - -	- - George Cyrus Lewis, Henry Bayes.
No. 1, White Hart-court	- ditto - -	The Crown - -	- ditto - - - -	Phœbe Cox.
No. 2, ditto - - -	- ditto - -	- ditto - -	- ditto - - - -	Elizabeth Maskell.
The sewer or watercourse leading from the Serpentine River to the River Thames.	- - ditto, and Saint Margaret, Westminster.	- ditto - -	- - - - -	- - The Commissioners of Sewers for Westminster and part of the county of Middlesex.
Kensington Opening.				
No. 14, High-street, Kensington.	- - Saint Margaret, Westminster.	- - the Honourable Mrs. Warde.	- - Frederick Wilson Sutton, executor of William Head; James Pollard, William Pollard, John Glaisyer, executors of Samuel Pollard; William Treadwell, William Plant, Thomas Crake Ingledew.	- - Thomas Crake Ingledew.
No. 15 - ditto - -	- ditto - -	- ditto - -	- - Frederick Wilson Sutton, executor of William Head; Esther Paterson, Isabella Paterson, James Tomlin, George Haines.	James Tomlin.
Brewhouse at the back of No. 14, High-street.	- ditto - -	- ditto - -	- - Frederick Wilson Sutton, executor of William Head; James Pollard, William Pollard, John Glaisyer, executors of Samuel Pollard; William Treadwell, Thomas Hagen.	Thomas Hagen.

A

B I L L

To empower the Commissioners of Her Majesty's Woods to form a new Opening from the Knightsbridge Road into Hyde Park, and a new Opening from High-street, Kensington, into an intended new Road across the Palace Green; and for annexing a Piece of extra-parochial Ground in the Royal Garden to the respective Parishes of Saint Mary Abbots, Kensington, and Saint Mary, Paddington, in several Portions.

(*Prepared and brought in by*
The Earl of Lincoln and Sir Thomas Fremantle.)

Ordered, by The House of Commons, *to be Printed,*
15 *March* 1842.

107.

Under 8 *oz.*

A

B I L L

For effecting an Exchange between Her Majesty and the Provost and College of Eton.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble: Her Majesty seised in fee of the Premises in the Second Schedule.

WHEREAS The Queen's most Excellent Majesty, in right of the Crown, is seised to Herself, Her heirs and successors, of the messuages, tenements, lands and hereditaments particularly mentioned and described in the Second Schedule to this Act annexed, situate in the parish of Eton, in the county of Bucks, subject to the Leases or Agreements for Leases in the said Second Schedule mentioned or referred to, and is also in like manner seised of a piece or parcel of land situate in the parish of Saint Pancras, in the county of Middlesex, containing One Rood and Thirty Perches, or thereabouts, particularly mentioned in the said Second Schedule to this Act:

Eton College seised in fee of the Premises in the First Schedule.

And whereas the Provost of the College Royal of the Blessed Mary of Eton, near unto Windsor, in the county of Bucks, commonly called The King's College of Our Blessed Lady of Eton, nigh or by Windsor, in the said county of Bucks, and the same College, are seised to them and their successors in fee-simple of the lands, tenements and hereditaments mentioned and described in the First Schedule to this Act annexed, situate in the parishes of Saint Marylebone, Saint Pancras and Hampstead respectively, or some or one of them, in the said county of Middlesex, subject to the lease in the said First Schedule mentioned:

Maps or Plans of the Lands have been made and signed.

And whereas Maps or Plans of the lands, tenements and hereditaments respectively mentioned and described in the said First and Second

Second Schedules to this Act, have been prepared and signed by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, and by the Provost of the said College, on behalf of himself and the said College; and such Maps or Plans, after the same shall have been authenticated by the signature of the Right Honourable The Speaker of the House of Commons, are intended to be deposited in the Office of Land Revenue Records and Inrolments, there to be and remain of record for ever:

Agreement for Exchange.

And whereas it has been mutually agreed by the said Commissioners on behalf of Her Majesty, and by the Provost of the said College on behalf of the said Provost and College, to exchange the lands, tenements and hereditaments described in the First Schedule to this Act, belonging to the said Provost and College, for the messuages, lands and hereditaments described in the Second Schedule to this Act, belonging to Her Majesty in right of the Crown:

And whereas it will be for the mutual benefit of Her Majesty and the said Provost and College and their successors, that such exchange should be perfected and carried into effect: But inasmuch as the same cannot be effected without the Authority of Parliament;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT within *Three* calendar Months after the passing of this Act, the said Maps and Plans, signed by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and by the Provost of the said College, and authenticated by the signature of The Speaker of the House of Commons, shall be deposited in the Office of Land Revenue Records and Inrolments, there to be and remain of record for ever.

1. Plans to be deposited in the Land Revenue Record Office.

2. The Lands in the First Schedule to vest in the Crown.

And be it Enacted, That from and immediately after the *passing of this Act* the lands, tenements and hereditaments mentioned and comprised in the First Schedule to this Act, with their and every of their rights, members and appurtenances, and the freehold and inheritance of the same in fee-simple, and the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits thereof, subject to the lease in the said First Schedule to this Act annexed mentioned or referred to, shall be and the same are by this Act vested in The Queen's most Excellent Majesty, Her heirs and successors for ever, as part and parcel of the hereditary revenues of the Crown, within the order and survey of the Court of Exchequer, who

who shall be deemed in law to be in the actual seisin and possession thereof, subject to the said lease mentioned in the said First Schedule, and with the same power of recovery of the rent and compelling the performance of the covenants in the said lease reserved and contained, and on the part of the tenants to be paid and performed, as were possessed by the said Provost and College immediately before the passing of this Act; but freed and discharged and absolutely exonerated from all other estates, rights, titles, uses, trusts, intents and purposes, interests, claims and demands heretofore created, limited or declared of or affecting the same.

3. Lands in the Second Schedule to vest in Eton College.

And be it Enacted, That from and after the *passing of this Act* the said messuages, lands, tenements and hereditaments mentioned and comprised in the Second Schedule to this Act, with their and every of their rights, members and appurtenances, and the freehold and inheritance of the same in fee-simple, and the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits thereof, shall (subject to the leases or agreements for leases in the Second Schedule to this Act mentioned or referred to) be and the same are by this Act settled upon and vested in "the Provost of the said College Royal of the blessed Mary of Eton, near unto Windsor, in the said county of Bucks, commonly called the King's College of our Blessed Lady of Eton, nigh or by Windsor, in the said county of Bucks, and the same College," freed and discharged and absolutely acquitted and exonerated of and from all former and other estates, rights, titles, uses, trusts, intents and purposes, interests, claims and demands heretofore created, limited or declared of or affecting the same, except the leases or agreements for leases mentioned in the said Second Schedule; subject nevertheless to the like uses or trusts which immediately before the passing of this Act were subsisting of and concerning the said hereditaments comprised in the said First Schedule.

4. Empowering the Provost and College to purchase up the Leases to which the Land received by them in exchange are now subject.

AND whereas certain sums of money belonging to the said Provost and College of Eton were invested in the purchase of Three per Centum Consolidated Bank Annuities, which are now standing in the name and to the credit of the Accountant-general of the High Court of Chancery, "ex parte the Provost and College of Eton:" AND whereas it may be expedient, for the purpose of making immediate improvements in the vicinity of Eton College, that the Provost and College of Eton should be enabled to obtain the actual possession of all or some of the hereditaments comprised in the said Second Schedule to this Act, discharged from the leases and agreements for leases mentioned in the same Schedule; BE it therefore Enacted, That it shall be lawful for the Provost and College of Eton, or their successors, immediately after the *passing of this Act*, subject to the approbation of the High Court of Chancery, to treat and agree with the lessees, tenants or under-tenants of the mes-

suages, lands, tenements and hereditaments comprised in the Second Schedule to this Act, for the purchase of all or any of their respective terms, estates or interests under subsisting leases or agreements for leases of and in such of the said messuages, lands, tenements and hereditaments as the said Provost and College may judge necessary or proper to be purchased for or in respect of such improvements, and that it shall be lawful for the said Court, upon a petition to be preferred in a summary way by or on behalf of the said Provost and College, to direct the sale of such part or parts as the said Court shall think proper of the stocks, funds, bills or securities which are now or hereafter shall be standing in the name of the said Accountant-general ex parte the Provost and College of Eton, and to direct that such part as the Court shall think proper of the monies arising therefrom, and of any other monies which are now or shall hereafter be standing to the credit of the Accountant-general of the said Court, "ex parte the Provost and College of Eton," shall be applied for or towards completing the purchase or purchases of any of such messuages, lands, tenements or hereditaments, or of such estates, terms or interests therein as aforesaid; and that the said Provost and College shall also, subject to the approbation of the said Court, have full power to apply, for all or any of the last-mentioned purposes, any other stocks, funds, securities or monies which are or shall be under their control or power, and that the messuages, lands, tenements or hereditaments, or the terms, estates or interests therein, which shall be so purchased or agreed for as aforesaid, shall be conveyed, assigned, surrendered or assured to the said Provost and College for the time being, and their successors, or as they shall direct, in order that such terms, estates and interests may either be extinguished or kept on foot for the purpose of protecting the inheritance of the premises so purchased against intermediate incumbrances.

5. Court of Chancery may direct Costs to be taxed and paid.

And be it Enacted, That it shall be lawful for the said Court of Chancery from time to time to make such orders as the said Court shall think fit for taxing, paying and selling all costs, charges and expenses which have been incurred or shall be incurred by the said Provost and College of Eton, in, about or relating to the said exchange, and the reference to arbitrators thereupon, and the passing of this Act, and incidental thereto respectively, and in making the several applications to the said Court respecting the matters aforesaid, and the costs of taking the said money out of the said Bank, and investing the same in the purchase of such messuages, lands and hereditaments, terms or interests as aforesaid, and of conveying, assigning, surrendering or assuring the same respectively, according to the directions hereinbefore contained.

6. Power of re-entry to the Crown in case of eviction.

And be it Enacted, That if Her Majesty, Her heirs or successors shall at any time hereafter be evicted from the possession of the said hereditaments described in the said First Schedule to this Act, by any right or title subsisting before the passing of this Act, then and from thenceforth it shall be lawful for Her Majesty, Her heirs or successors, or the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, for and on behalf of Her Majesty, Her heirs or successors, immediately after such eviction from the possession of the same premises, to enter into and upon the said hereditaments described in the Second Schedule to this Act, and to have, hold and enjoy the said premises for such estate, and in as full, ample and beneficial a manner as Her Majesty held the said hereditaments described in the said Second Schedule prior to the passing of this Act, any thing herein contained to the contrary thereof in anywise notwithstanding.

7. Power of re-entry to the College in case of eviction.

And be it Enacted, That if the said Provost and College or their successors shall at any time hereafter be evicted from the possession of the hereditaments described in the said Second Schedule to this Act, by any right or title subsisting before the passing of this Act, then and from thenceforth it shall be lawful for the said Provost and College and their successors, immediately after such eviction from the possession of the same premises, to enter into and upon the hereditaments described in the said First Schedule to this Act, and to have, hold and enjoy the said premises in as full, ample and beneficial a manner as the said Provost and College held the said hereditaments described in the said First Schedule, prior to the passing of this Act, any thing hereinbefore contained to the contrary thereof in anywise notwithstanding.

8. Costs of obtaining Act to be paid by the Crown.

And be it Enacted, That all the costs and expenses of applying for and obtaining this Act shall be borne and paid by the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, for and on behalf of Her Majesty.

9. General Saving of Rights.

Saving always to all and every other person and persons, bodies politic and corporate, his, her and their respective heirs, successors, executors, administrators and assigns, other than and except Her Majesty, Her heirs and successors, and the said Provost and College of Eton and their successors, All such estates, rights, titles, interests, claims and demands whatsoever, of, in, to or out of the said hereditaments and premises comprised in or in any manner affected by this Act as aforesaid, as they or any of them respectively had before the passing, or respectively could or might have had, held, enjoyed and been entitled to, in case this Act had not been passed.

10. Provisions of the Act 5 Vict. c. 20, extended to the Lands mentioned in the First Schedule to this Act.

AND whereas it is expedient, for the purpose of making immediate improvements, that the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on behalf of Her Majesty, should be enabled to obtain the actual possession of the lands and hereditaments mentioned and described in the First Schedule to this Act, freed and discharged from the lease granted to John Spice Hulbert, mentioned in the said Schedule: AND whereas an Act was passed in this present Session of Parliament, intituled, "An Act to extend an Act passed in the fourth and fifth years of Her present Majesty for enabling Her Majesty's Commissioners of Woods to purchase certain Lands for Victoria Park;" BE it Enacted, That the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings shall or may, for the purpose of obtaining the actual possession of the said lands and hereditaments mentioned in the First Schedule to this Act, have, use and exercise all and every the powers and authorities in the said last-mentioned Act contained, and in all respects as if the same hereditaments were to be obtained for the purpose of the said last-mentioned Act, and that all the clauses and provisions in the said recited Act contained, empowering the said Commissioners, on behalf of Her Majesty, to take and use any lands or hereditaments, and to treat for the purchase thereof, and for enabling bodies politic, trustees and other persons to sell and convey and to accept satisfaction for the value of the lands and hereditaments so taken, for requiring parties to deliver statements of their claims to the said Commissioners, and for ascertaining and fixing by the verdict of a jury, or otherwise, the amount of compensation to be paid to such bodies politic, trustees or other persons, and for regulating the payment of the purchase-money, and all other powers and authorities, whether compulsory or otherwise, given or granted to the said Commissioners by the said recited Act, shall extend and be applicable to all such part of the lands or hereditaments comprised in and demised by the said lease so granted to the said John Spice Hulbert as are mentioned and described in the First Schedule to this Act, and to all estates, rights, titles and interests held or derived by the said John Spice Hulbert, his executors, administrators or assigns, or his, their, or any of their under-tenants by or under the said lease, in such and the same manner as if all the said clauses, provisions and regulations were herein repeated and expressly re-enacted and adapted to such last-mentioned lands and hereditaments, save and except in so far only as such clauses, provisions and regulations may be repugnant to the objects effected or intended to be effected by this Act; and except when any such estates or interests in the said hereditaments shall be so acquired, the same shall be vested in The Queen's most Excellent

5 Vict. c. 20.

Majesty,

Majesty, Her heirs and successors, in all respects as is hereinbefore enacted with respect to the said hereditaments comprised in the said First Schedule to this Act.

11. Power to alter and stop up Roads, and make other Roads.

And be it Enacted, That it shall be lawful for the said Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings to stop up, alter, divert or widen all or any of the roads, ways, paths or passages now running into, upon, through or over all or any part or parts of the lands mentioned and described in the First Schedule to this Act, and to set out, form, and make in lieu thereof, or in addition thereto, such other roads, ways, paths or passages as to the said Commissioners may seem fit and necessary.

12. Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and others.

SCHEDULES

To which the foregoing ACT refers.

THE FIRST SCHEDULE referred to by this ACT.

All those several pieces or parcels of Land, containing by admeasurement Fifty-four Acres and One Rood or thereabouts, be the same little more or less, comprising Primrose Hill and Lands adjoining thereto, the whole situate, lying and being in the parishes of Saint John Hampstead, Saint Marylebone and Saint Pancras, or some or one of them, in the county of Middlesex; (that is to say)

	A.	R.	P.
Firstly.—All that triangular piece of Land abutting on the south on the Portland Town or Albert-road; on the east on land formerly the property of Lord Southampton, and now the property of Her Majesty; on the north-west on the piece of land secondly hereinafter described, and which said piece of land is situate in the parishes of Saint Pancras and Saint Marylebone, or one of them, and is now in the immediate possession and occupation of the said Provost and College of Eton, and contains by admeasurement - - - - - - - - -	1	–	3
Secondly.—All that other piece or parcel of Land called or known by the name of Rugmore Close, abutting on the firstly-described piece of land on the south-east, on the said Portland or Albert-road on the south, on property of the Duke of Portland on the west, on land formerly belonging to the said Lord Southampton and now the property of Her Majesty on the east, and on the piece of land thirdly hereinafter described on the north or north-west; which said piece or parcel of land is situate in the parishes of Saint Pancras and Saint Marylebone aforesaid, or one of them, and contains by admeasurement -	18	2	10
Thirdly.—All that other piece or parcel of Land comprising Blue-house-field and parts of certain fields called or known by the names of Primrose Hill, Sheppard's Hill, Square Field, the Thirteen Acres and the Ten Acres, abutting on the north and on the north-east on other land now belonging to the said Provost and College; on or towards the east on lands belonging to Her Majesty, formerly the property of the said Lord Southampton; on or towards the south-east on the piece or parcel of land secondly hereinbefore described; and on or towards the south on lands now or late the property of the said Duke of Portland; and on or towards the south-west on lands now or late the property of Colonel Eyre; and which said piece or parcel of land is situate in the parish of Saint John Hampstead, and contains in the whole by admeasurement - - - - - - - - - - - - -	34	2	27
Total - - -	54	1	–

The lands secondly and thirdly above described are, together with other lands adjoining thereto, subject to a Lease granted by the said Provost and College of Eton, bearing date the Ninth day of May One thousand eight hundred and Forty, to John Spice Hulbert, Esquire, for a term of Nineteen Years, from the Sixth day of April One thousand eight hundred and Forty, at and under certain rents and reservations, and subject to certain covenants and agreements in the said lease mentioned.

Value in fee-simple of the lands and hereditaments mentioned and described in this Schedule (subject to the lease granted to John Spice Hulbert, Esquire, as above mentioned, the rents reserved by which lease have been apportioned) is Fifteen thousand one hundred and twelve Pounds Five Shillings.

Edward Driver.
John Shaw.

THE SECOND SCHEDULE REFERRED TO BY THIS ACT.

DESCRIPTION of PREMISES.	OCCUPIERS.	Reserved Annual Rent under the Crown Leases.
		£. s. d.
A Dwelling-house, situate in High-street, Eton, with Out-buildings and Gardens adjoining.	Susan Jane Hatton	20 – –
Another Dwelling-house, situate adjoining the above, with Out-buildings, Yard and Garden adjoining.	William Hexter	45 – –
Another Dwelling-house, situate adjoining the above, with Out-buildings, Yard and Garden adjoining.	Edward Weight	32 – –
Another Dwelling-house, with Out-buildings, Yard and Garden adjoining the above.	Samuel Webber	50 – –
Another Dwelling-house, with Garden, also adjoining the above.	– – late T. C. Tarver (now empty).	
Another Dwelling-house, with Out-buildings and Yard, also adjoining the above.	– – late Merrick (now empty).	45 – –
Another Dwelling-house, with Yard and Out-buildings, situate in High-street and also in Keat's-lane, being the corner house.	– – late Richard Fowler (now empty).	
Another Dwelling-house and Out-buildings, Yard and Garden, situate in Keat's-lane, Eton. All the before-described Premises are held by Thomas Slatter, Esquire, under separate leases, granted from the Crown, for terms of Thirty Years, from the Fifth of July One thousand eight hundred and Thirty-one, at and subject to the several annual reserved Rents above stated.	– – the Reverend F. E. Durnford.	59 10 –
Another capital Dwelling-house, adjoining the last before described, and also situate in Keat's-lane, with Out-buildings, Yard and Garden. These Premises are held by Thomas Slatter, Esquire, under a lease, granted from the Crown, for the term of Fifty Years, from the Fifth of July One thousand eight hundred and Thirty-one, at and subject to the annual reserved Rent of -	– – the Reverend E. H. Pickering. - - -	18 – –
Another Dwelling-house, Offices, Out-buildings, Yards and Garden, also situate in Keat's-lane. These Premises are held by Thomas Slatter, Esquire, under a lease, granted from the Crown, for a term of Thirty Years, from the Fifth of July One thousand eight hundred and Thirty-one, at and subject to the annual reserved Rent of -	– – Mrs. Nesfield and William Evans, Esq. - - -	35 – –
A very capital Dwelling-house, with Offices, Out-buildings, Stables, Yards and Garden, and another Dwelling-house built on the said Garden, all being situate in Keat's-lane. These Premises are held by the Representatives of the late Provost, Doctor Goodall, under a lease, granted from the Crown, for Three hundred and sixty-two Days and Forty-five Years, computed from the Eighth day of July One thousand eight hundred and Thirty-five, at the clear yearly value of Twenty-five Pounds for the first Three hundred and sixty-two Days and Ten Years, and at the clear yearly rent of One hundred and fifty Pounds during the remainder of the said term.	– – the Reverend Edward Coleridge.	25 – – Annual reserved Rent till 5 July 1846. 150 – – For the remainder of the term.

(*continued.*)

Description of Premises.	Occupiers.	Reserved Annual Rent under the Crown Leases.
The Messuage called the Christopher Inn, situate in the High-street at Eton, together with the Yards, Stabling, Malthouse, Workshops and Out-buildings thereto belonging; a Dwelling-house and Garden in the Backyard, Timber-yard and Carpenter's Sheds, two other Kitchen-gardens, and a parcel of Meadow Land adjoining, containing in the whole Two Acres and Twenty-five Perches - - - - -	Thomas Clarke, Walter Beavor Cooper, William Evans, Skelton, and the Provost of Eton College.	
Also, the piece of Land, called Little Town's Piece, containing Two Roods and Six Perches, together with Nine Houses erected thereon, with Yards and Gardens, and containing in the whole Two Roods and Six Perches. These last-mentioned Premises (together with several small pieces of Land lying dispersedly in the Common Fields of Eton, and containing Twenty-nine Acres and Eighteen Perches, and now in the occupation of Charles Turner, as yearly tenant, at the rent of Forty-three Pounds per annum, which said Twenty-nine Acres and Eighteen Perches are not included in this exchange, but are to be surrendered to the Crown at Michaelmas next, subject to such yearly tenancy) are held by the Provost and Fellows of Eton College under a lease, granted by the Crown, for a term of Fifty-two Days and Forty Years, computed from the Nineteenth of August One thousand eight hundred and Eight, in consideration of a fine of Eight hundred and ninety-three Pounds then paid by the lessees to the Crown, and at a clear yearly reserved rent of One hundred and four Pounds Four Shillings, payable during the term, and which lease is to be surrendered to the Crown at Michaelmas next ensuing, subject as aforesaid.	Sundry occupiers.	
Also a piece or parcel of Land, situate near Primrose Hill, in the parish of Saint Pancras, in the county of Middlesex, containing One Rood and Thirty Perches.	Her Majesty.	

WE, whose names are undersigned, having been directed by Her Majesty's Commissioners of Woods, Forests and Land Revenues, on the one part, and the Provost and Fellows of the College of Eton, on the other part, to survey and determine upon the value of certain freehold property belonging to Her Majesty, situate in the parish of Eton, in the county of Buckingham, and in the parish of Saint Pancras, in the county of Middlesex, more particularly described in the above Schedule, have made a survey and examination of the same, and, subject to the existing leases of the said property, do find the value thereof (exclusive of certain outlying lands, containing Twenty-nine Acres and Eighteen Perches, lying dispersedly over the parish of Eton, and in the occupation of Charles Turner, as sub-tenant to the Provost and Fellows of the said College, but which are included and contained in the lease of the Christopher Inn, and other premises granted by the Crown to the said Provost and Fellows) to be Fifteen thousand one hundred and twelve Pounds Five Shillings (£. 15,112. 5.) which valuation is made upon the assumption of the Crown continuing in possession of and receiving all rents from the said Provost and Fellows and the other Crown lessees until the Eleventh of October One thousand eight hundred and Forty-two.

(£. 15,112. 5.)

Edw. Driver.
John Shaw.
Jas. W. Higgins.

(Ireland.)

A

B I L L

To promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble:

WHEREAS it is expedient that provisions should be made for promoting the Drainage of Lands in Ireland, and the improvement of Navigation and Water-power in connexion with Drainage, by empowering the Commissioners of Public Works in Ireland to undertake the execution of such Works on the application and at the charge of the Proprietors; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

1. The Commissioners of Public Works to be the Commissioners under this Act.

THAT the Commissioners of Public Works in Ireland for the time being, appointed under an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," shall be the Commissioners for the execution of this Act.

2. Two additional Commissioners may be appointed.

Provided always, and be it Enacted, That it shall and may be lawful to and for the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, by warrant under the hands of any Three or more of them, if they shall so think fit, to

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appoint One or Two persons to assist the said Commissioners of Public Works, and be Commissioners together with them for the execution of this Act during pleasure, and to remove either or both of said last-mentioned Commissioners, and to appoint another or others in the stead of the person or persons so removed, or dying or resigning; and that all matters and things which the Commissioners for the execution of this Act, are by any of the provisions of this Act required or authorized to do or execute, may be done and executed by any Two of such Commissioners.

3. Any person interested in any land liable to be flooded, may present Memorial to the Commissioners of Public Works, praying that same may be drained under the provisions of this Act.

And be it Enacted, That it shall be lawful for any person interested in any land liable to be flooded or injured by water, or capable of being drained, or the drainage whereof may be capable of being improved, to apply by memorial to the Commissioners for the execution of this Act, stating the nature and extent of the land so liable to be flooded or injured by water, and praying that the same may be drained, or that the drainage thereof may be improved under the provisions of this Act.

4. Any person interested in any river near to any such land, may present Memorial, praying that the navigation of such river may be improved.

And be it Enacted, That it shall be lawful for any person interested in any river within, adjacent or near to any such tract of land as aforesaid, and which river, or any part thereof, may be capable of being rendered navigable, or the navigation whereof may be capable of being improved in connexion with drainage, to apply by memorial to the said Commissioners, stating the locality and extent of such river, and praying that the same, or such part thereof, may be improved in conjunction with the drainage of the land adjacent or near thereto, under the provisions of this Act.

5. Grand Jury may present Memorial when navigation may be effected or improved.

And be it Enacted, That it shall be lawful for the Grand Jury at the Assizes of any county, in which any such river as aforesaid, or any such part thereof, may be situate, to make a presentment directing their Secretary to apply by memorial as aforesaid, for the like purpose, to the said Commissioners, provided, *One Month* at least before the meeting of such Grand Jury, a notice, signed by One or more cess-payers of such county, specifying that it is intended to bring under the consideration of such Grand Jury the propriety of such memorial, shall have been published in *Three* successive publications of a news-paper circulating in such county, and shall have been *Ten* Days before such meeting of such Grand Jury posted at the usual places for posting Grand Jury notices in every barony in such county in which any such river or such part of a river proposed to be improved is situate, in the same manner as notices for applications are to be posted under an Act passed in the Session of Parliament holden in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to consolidate and amend

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the Laws relating to the Presentment of Public Money by Grand Juries in Ireland."

6. Where Memorial presented, Commissioners may require a deposit to be made for defraying preliminary expenses.

And be it Enacted, That in every case of application by memorial as aforesaid, the said Commissioners shall require such a sum to be deposited in their hands by or on behalf of the person or Grand Jury so applying as shall be sufficient for defraying the expense of making the preliminary inquiries, inspection and report hereinafter mentioned, and shall also, whenever afterwards they shall have notified their approval of the matter of such memorial, require to be deposited in their hands by or on the part of such person or Grand Jury, such sum as shall be sufficient for defraying the expenses of making the further surveys, schedules, maps, plans, drawings, sections and estimate hereinafter directed to be made, respecting the land or river proposed to be drained or improved respectively, and the works necessary for draining and improving the same, and for defraying the expenses of all other measures hereinafter directed to be taken for the purposes hereinafter expressed, previous to the actual commencement of any works under the provisions or this Act.

7. Grand Jury may direct the Treasurer of the county to deposit the sum required to be deposited with the Commissioners.

And be it Enacted, That it shall be lawful for any Grand Jury who shall direct any such application by memorial, as aforesaid, to present (without application to Presentment Sessions) any sum which they shall think necessary for or towards providing the amount of such first deposit as aforesaid, or, if they shall think fit, for or towards providing the amount of both such deposits, such amount to be raised off such baronies and half baronies as shall be specified in such presentment, and to direct the Treasurer of the county, out of any public monies which he may have in his hands, to lodge with the said Commissioners such first deposit, or both such deposits, according as such Grand Jury shall direct in such presentment, and as the said Commissioners shall require, for defraying the expenses aforesaid; and such Treasurer shall make such deposit, and the amount so presented shall be raised and levied accordingly; and in case the deposit or deposits required by the said Commissioners shall not amount to the sum so presented, the surplus shall be applied as any other public monies levied off such baronies or half baronies.

8. Commissioners may appoint person to inspect the land or river, and to report thereon.

And be it Enacted, That whenever any such memorial as aforesaid shall be presented to the said Commissioners, and the sum required to be deposited with them for the purpose of making such inquiry, inspection and report as aforesaid shall have been deposited accordingly, the said Commissioners shall direct some engineer or other competent person to inspect, and, if the said Commissioners shall deem fit, to make a survey of the land or river referred to in such memorial, or of any other land or river of which they shall deem it necessary

for the purposes of such memorial that a survey should be made, or to examine any survey already made thereof, which the said Commissioners shall think sufficient, and to inquire into and ascertain the present state of such land or river, and the capacity of the said land for improvement by drainage, and the probable increase in the value of such land when so improved, and also the capacity of such river for improvement, and further to ascertain whether any existing navigation would be injured by the works necessary to be executed for drainage, or whether any useful or necessary navigation would or might be effected or improved either immediately or remotely in conjunction therewith, and whether it may be necessary or expedient for the execution of such works to purchase, remove, injure or alter any weir, dam, mill, factory or other building or property, and whether any and what improvement would or might be effected in any existing water-power, and whether any new water-power would or might be created in conjunction with such works, and whether, for the prevention of sudden floods and the preservation of surplus water for the supply of towns, mills, factories or navigation, or for the irrigation of or the warping or depositing soil by means of water on any lands where same shall be a beneficial manurance, that any and what reservoirs should be constructed; and such engineer or other person shall report to the said Commissioners the nature, extent and probable expense of effecting the purposes aforesaid, and the lands, mills, factories, weirs and other property to be affected by such works, and the benefit or injury likely to arise to such lands, mills, factories, weirs and other property respectively from such works, and the several matters aforesaid.

Commissioners, &c. may enter lands for the purposes of survey or inquiry.

9. And be it Enacted, That for the purposes of any inspection, survey or inquiry directed, or necessary under any of the provisions of this Act, it shall be lawful for the said Commissioners, by themselves, their surveyors, engineers, agents, officers and workmen, to enter upon any lands or premises in any district within which it is proposed that any works shall be executed under this Act, or any lands and premises adjoining thereto, and, if necessary, to dig or bore therein, and also to examine any weir, sluice or floodgate erected in or upon any river or stream which it shall seem to them to be necessary to examine, and to open or raise any such floodgate or sluice for the purposes of any such inquiry, and to make any soundings or bore the bed or channel of any part of such river, or any mill-course connected therewith, making reasonable compensation for any damage done thereby; and the amount of such compensation shall be ascertained by the Magistrates sitting in Petty Sessions for the district wherein any such damage shall be committed, and they are hereby authorized and required to inquire into and determine same, and for that purpose to examine all such witnesses as shall be produced before them, and to make such order as to them shall seem just

just for the payment of the amount of such damage by the Commissioners to the party aggrieved, which said order shall be final and conclusive: Provided always, That the said Commissioners, their surveyors, engineers, agents, officers and workmen may enter upon lands as aforesaid, and do all necessary matters and things by this Act authorized, previously to or pending the decision of such Magistrates.

10. If Commissioners think it inexpedient to execute the necessary works, they are to decide accordingly.

And be it Enacted, That if, on the report of such engineer or other person, the said Commissioners shall consider that the benefits likely to arise would not be commensurate with the probable cost of the necessary works, or if from any other consideration the said Commissioners shall deem it inexpedient that the land or river referred to in any such memorial as aforesaid should be drained or improved under the provisions of this Act, they shall decide accordingly, and shall transmit to the person or Grand Jury who shall have presented such memorial relating thereto, a notification in writing of their determination, together with a copy of such report.

11. If the Commissioners approve of the works proposed, they shall cause copies of the Report to be deposited for public inspection.

And be it Enacted, That if on the report of such engineer or other person the said Commissioners shall consider it expedient that any works should be undertaken, they shall notify in writing to the person, or to the Secretary of the Grand Jury, who shall have presented such memorial as aforesaid, their approval of the matter of such memorial, and shall cause copies of the report to be made, and shall deliver a copy thereof to any person who shall apply for the same, on payment of the reasonable expense of preparing such copy; and shall also cause copies of such report to be deposited with the Clerk of the Peace (and, where any navigation is proposed to be improved by such works, with the Secretary of the Grand Jury) of every county in which the land or river, or the part thereof proposed to be drained or improved, shall be situate, and also in such and so many convenient places in the district where the said works are proposed to be executed, or in the vicinity thereof, as they the said Commissioners shall think necessary, there to remain open for public inspection at all reasonable times for Three successive weeks; and they shall cause notice of the places where such copies are deposited to be given by public advertisement in some newspaper circulating in such county or counties, or otherwise, as to them shall seem expedient.

12. Commissioners to cause surveys, &c. to be made.

And be it Enacted, That if in the last-mentioned case the said Commissioners shall deem it expedient, they shall, upon receiving such deposit as aforesaid of a sum sufficient for the purpose, cause further

surveys to be made of the land proposed to be drained or improved, and of the river proposed to be improved in connexion with such drainage, and proper schedules, maps, plans and sections to be prepared, describing the district within which it is proposed to put the powers of this Act into execution, and showing the land and other property to be drained or improved by such drainage, and showing in one or more of such schedules the proprietors, lessees and occupiers thereof, and the lands or other property required to be taken for, or likely to be injured by, the proposed works, and the proprietors, lessees and occupiers thereof, and showing, so far as may be possible, the line, course and situation of the streams, watercourses, drains, rivers and lakes intended to be cleared, scoured or embanked, and the requisite variations, divisions, abridgments or enlargements of the same, and the direction and extent of any new drains, watercourses or works necessary to be made, and the land in and through which the same are to be made; and they shall also cause to be made an estimate of the expense of the proposed works, including in such estimate the probable amount of money payable as compensation in respect of any injury likely to be occasioned by such works, or for the purchase of any land, houses, fisheries, weirs, mills or other property required to be taken or purchased for the purpose of such works, and other miscellaneous expenses likely to be incurred; and they shall also cause the then actual value of the land to be drained or improved by drainage by the proposed works to be ascertained, in such manner and by such means as they shall think proper, and the probable increase in such value by the proposed works; and such actual value and estimated increase shall be stated in the said schedules, and also the proportions in which such lands shall contribute towards the payment of the costs of the proposed works, specifying such proportions in the ratio of the estimated increase in the value of such lands; and in every case where the navigation of any such river or such part of a river as aforesaid shall be proposed to be improved, every such estimate shall also and separately specify the amount of the costs which will be incurred in the execution of such of the proposed works as shall be necessary for the improvement of the navigation of such river or part of a river, and the district likely to be benefited by such improvement, and the baronies, half baronies or townlands in such district, and the proportions in which such baronies, half baronies or townlands, whether situate in one or more counties, are likely to be benefited, and should contribute to such costs; and the said Commissioners shall cause to be made copies of the said schedules, maps, plans, sections and estimate, and shall cause such copies to be deposited in such convenient place or places as the said Commissioners shall think proper, within or in the immediate vicinity of the district in which such land

land or river or part of a river shall be situate, there to remain open for public inspection at all reasonable times for *Three* successive Weeks; and all persons shall be at liberty to inspect and make copies of or extracts from the said schedules, maps, plans, sections and estimate, and copies thereof or extracts therefrom shall be made for any person who shall require the same, on payment of the costs of making such copies or extracts.

13. A notice shall be published and posted, stating that maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of the said schedules, maps, plans, sections and estimate have been deposited as aforesaid, to be published in some newspaper usually circulated in the district in which the land or river or part of a river proposed to be drained or improved shall be situated, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in or near such district; and in all cases where it shall be proposed that the navigation of any river or part of a river shall be improved, a copy of such notice shall be served on the Secretary of the Grand Jury or Grand Juries of the county or counties in which such river or part of a river so be improved shall be situate; and in all cases where it shall be proposed to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction connected with any mill or factory, a copy of such notice shall be served on the owner, lessee or occupier or person in charge of such mill or factory, or posted on the door or wall thereof; and by such notice all parties interested shall be required, on or before a day to be therein named, not sooner than *Thirty* Days from such publication and posting or service as aforesaid of such notice, to transmit to the Secretary of the said Commissioners their objections to the said schedules, maps, plans, sections and estimate, and all other objections which such parties shall think fit to make with respect to any thing proposed to be done by the said Commissioners under the provisions of this Act.

14. Grand Jury may appoint Committee.

And be it Enacted, That in every case in which it shall be proposed that the navigation of any such river or part of a river as aforesaid should be improved, in conjunction with the drainage of the adjacent lands, it shall be lawful for the Grand Jury at the Assizes of each county in which any such improvement is proposed to be made, to appoint a committee, for the purposes hereinafter mentioned, consisting of *Seven* persons, each of whom shall be a member of such Grand Jury, or shall have served upon some former Grand Jury at the Assizes of such county, or shall be a Justice of the Peace of such county; and any *Three* of such committee shall form a quorum; and such committee

mittee shall have power to act until the appointment of any new committee by any such subsequent Grand Jury of such county, which committee every subsequent Grand Jury of such county is hereby empowered to appoint.

15. Committee of Grand Jury empowered to attend Meeting, and to object to the proposed works for navigation.

And be it Enacted, That it shall be lawful for the committee which shall have been appointed by any such Grand Jury as aforesaid, to transmit to the said Commissioners such objections as such committee shall think proper to the said report, schedules, maps, plans, sections and estimate which shall have been deposited as aforesaid, and also to attend at the meeting or meetings to be convened by the said Commissioners under the provisions of this Act, as next hereinafter mentioned and at such meeting or meetings to support such objections, or to make such other objections, as such committee shall think proper.

16. Meeting of the persons interested to be called by public notice.

And be it Enacted, That the said Commissioners shall, either by the notice to be published and posted as aforesaid, or by a subsequent notice to be published and posted in like manner, call one or more public meetings of all persons interested in the land or river or part of a river proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of *Thirty* Days, and at such convenient place or places within the district wherein such land or river or part of a river so to be improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice.

17. Proceedings at Meeting.

And be it Enacted, That at the time and place named in such notice or notices as aforesaid, the said Commissioners shall attend, and shall have power to adjourn from time to time, or hold such new meeting as they may find necessary, and shall inquire into the correctness of the schedules containing the names of such proprietors and occupiers as aforesaid, and shall hear all such objections as shall have been or shall then be made by any person or persons interested in said lands or river, or any persons on his or their behalf, as to any omission or mis-description in such schedules, or any name improperly inserted therein, and shall hear all such other pertinent objections as shall have been or shall be then and there made by such person or persons to the schedules, maps, plans, sections and estimate which shall have been made under the provisions hereinbefore contained ; and the said Commissioners shall also hear and inquire, on oath or otherwise, into all such objections, by any of the persons aforesaid, to the said proposed works as shall have been or shall then and there be made, and also all objections to the stated value of the land, or to the stated probable increase in such value, as the same shall have been respectively set forth in the said schedules, and also

also into all such objections as shall have been made, or shall then and there be made, by or on behalf of the owner, lessee or occupier or other person interested in any mill or factory likely to be affected by any thing proposed to be done by the Commissioners under any of the provisions of this Act; and after having considered all such objections as aforesaid, they shall cause such alterations (if any) as they may deem expedient to be made in the said schedules, maps, plans, sections and estimate, and shall sign the same; and the said Commissioners shall receive and hear all such evidence as may be offered to them in relation to the several matters aforesaid, and shall give to the persons present at such meeting full information respecting the nature and extent of the proposed works, and shall take or receive the assents, in writing, of the proprietors of the lands comprised in such schedules, to the execution of the proposed works; and such schedules, maps, plans, sections and estimates so signed by the said Commissioners, and the assents which shall be given, shall be preserved by the said Commissioners in their office in Dublin, and a copy or copies thereof shall be deposited with the Clerk of the Peace of each county wherein such works are proposed to be executed, and shall be open to public inspection at all reasonable times, on payment of a fee of *One Shilling*, and shall, when required by the Secretary of the Grand Jury of any such county, be produced for inspection at any Presentment Session to be held within such county.

18. Presentment Session and Grand Jury may approve of Works, and undertake to pay the costs thereof.

And be it Enacted, That in every case in which it shall be proposed that the navigation of any river or part of a river shall be improved as aforesaid, it shall be lawful for the Justices and associated cess-payers, at the Presentment Session of each barony or half barony within the district likely to be benefited by the improvement of such river or part of a river, and also at the Presentment Session to be holden for the county at large, at any time previous to, or within *Twelve* Months after, the time of holding such meeting as last aforesaid, to make a declaration in the form in the Schedule to this Act annexed, or as near thereto as may be convenient, approving of the proposed works, and consenting that the proportion of the costs and expenses of so much of the said works as shall relate to the improvement of the navigation of such river, which shall be assessed upon such barony or half barony, or any townland or townlands, or upon the county at large, under the provisions of this Act, shall be raised off such barony, half barony or townlands, or such county at large respectively; and every such declaration shall be delivered to the Secretary of the Grand Jury of such county, and shall be laid by him before the Grand Jury of the said county at the next ensuing Assizes, together with such report, schedules, maps, plans, sections and estimates; and it shall be lawful for such Grand Jury to make presentment allowing or disallowing the same; and it shall be lawful for any person liable to be assessed under and by virtue

of any Grand Jury Presentment, for any proportion of such costs and expenses, to traverse any such presentment; and such traverse shall be made and tried and in all respects disposed of as any traverse of any similar presentment under any Act or Acts in force in Ireland relating to the presentment of public money by Grand Juries in Ireland; and all the provisions of any such Act or Acts, in relation to the traverse of any presentment, shall apply to such presentment so to be made under this Act, and to any traverse thereof to be so made as aforesaid.

19. If Presentment Session and Grand Jury refuse or neglect, any person mayguarantee the payment of such costs.

And be it Enacted, That if any such Presentment Session and such Grand Jury as aforesaid shall refuse or neglect to make such declaration as aforesaid, approving of the proposed works for the improvement of the navigation of any such river or part of a river, and undertaking to pay such proportion of the expenses thereof as last aforesaid, then it shall be lawful for any person or persons whomsoever to guarantee or otherwise secure the payment of such proportion of such expenses to the said Commissioners.

20. No Drainage Works to be commenced, unless proprietors of Two-thirds of the land assent.

And be it Enacted, That no works shall be commenced for the drainage of any land under or by virtue of this Act, unless the proprietors of *Two-thirds* or more in extent of such land shall assent to the execution thereof in writing under their hands respectively, within such time as the said Commissioners shall appoint.

21. Work not to be commenced till declaration made; nor unless Two-thirds of the proprietors of adjacent lands to be drained, assent.

And be it Enacted, That no work for the improvement of the navigation of any such river or part of a river as aforesaid shall be commenced, unless such declaration as hereinbefore mentioned shall have been made at the Presentment Session of the barony or half barony, baronies or half baronies, which singly or collectively shall, according to the extimate of the said Commissioners, be liable to contribute *Two-thirds* or more of the full estimated espenses of improving such navigation, approving of the proposed works, and consenting to pay the expenses as aforesaid, and unless a presentment allowing the same shall have been made by the Grand Jury of the county in which any such baronies or half baronies are situated, or unless some person shall guarantee or otherwise secure the payment of such expenses; nor shall any such works be commenced, unless the proprietors of *Two-thirds* or more in extent of the land proposed to be drained or improved as aforesaid, shall also assent to the execution thereof in writing under their hands respectively.

22. Who shall be deemed proprietors.

And be it Enacted, That any person seised of or entitled to any portion of the land proposed to be drained or improved by drainage, in possession as tenant in fee-simple or in fee-tail, general or special, or as tenant by curtesy, and also any person who shall be entitled under

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any will or settlement, or any other deed or instrument (except a grant or lease reserving rent or an agreement in writing for such grant or lease) for his own life, or the life of any other person, or for years determinable on such life or lives, and also any person who shall be entitled under any lease granted by a Bishop or any collegiate or ecclesiastical body, or under any lease granted by any person having immediate or derivative title from or under any Bishop or any collegiate or ecclesiastical body, which lease shall contain a toties quoties covenant of renewal, and also any person who shall be entitled under any grant, lease or any other deed or assurance for an estate in fee, or for a term of years absolute, whereof *Forty* Years or more shall be unexpired, or for an estate or interest for any life or lives renewable for ever, or for any term or terms of years either absolute or determinable or renewable for ever, whether such last-mentioned person shall be entitled to any such estate, term or interest, either absolutely or as tenant in tail, or as quasi tenant in tail, or for his life, and also every feoffee or trustee of any such land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, shall be deemed a proprietor of such land for the purposes of this Act; and in every case in which any person seised, possessed of or entitled to any such land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall, subject to the provisions hereinafter contained, be deemed a proprietor of such land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any land so proposed to be drained, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed the proprietor for the purposes of this Act, as shall be in actual occupation of the said land, or as shall have such estate or interest as aforesaid therein next in reversion or remainder to the estate or interest of the person in actual occupation.

23. Persons entitled to certain interests, upon giving security to be deemed proprietors.

And be it Enacted, That at any time before such meeting as last aforesaid, or at any period within the time to be appointed as aforesaid, by the Commissioners for the receiving of assents, any person seised or possessed of any portion of the land proposed to be drained or improved, for any life or lives, or for any term of

years determinable on any life or lives, or for any term of years absolute, whereof there shall be then *Seven* Years or more unexpired, who shall deposit with the said Commissioners such sum of money as to them shall seem sufficient for the payment of the sum or sums with which such portion of land shall become chargeable for or in respect of the costs and expenses of the works proposed to be executed, shall be deemed the proprietor of such land, and the person entitled to assent for the purposes of this Act: Provided always, That in case several such persons shall desire to become assenting proprietors, and to make such deposit as shall be so required, preference shall be given to such of the said persons as shall be in actual occupation of the lands; and in case the person so in occupation shall not so desire, or shall not make such deposit, then the person who shall have the next estate or interest in such lands greater than that of such occupier or occupiers thereof, and shall so desire, and make such deposit, shall be preferred, and so on, that person (if there be more than one signifying such desire, and so making such deposit) being always preferred who shall have, among such persons as last aforesaid, such estate or interest as aforesaid nearest in order to and greater than that of the occupier of such lands: Provided also, That in case any such person shall become such assenting proprietor, the assent of any other person shall not be taken into account in respect of such lands.

24. Trustees, &c. may apply to Court of Chancery for leave to assent.

Provided always, and be it Enacted, That it shall and may be lawful for any feoffee or trustee for charitable or other purposes, and also for any guardian, husband or committee of any infant, feme covert, or idiot or lunatic, respectively (on behalf of their respective infants, idiots, wives or lunatics), to apply, if they shall think fit, in a summary way, by petition, to Her Majesty's Court of Chancery in Ireland, for leave to assent to the execution of any works proposed to be done under the provisions of this Act; and the said Court shall have power to inquire into the propriety of giving such assent, and to make such order on the petition, and as to the costs thereof, as to the Court shall seem meet; and if the Court shall authorize any such assent being given, then it shall be lawful for the person who shall have presented the petition to give such assent, and the same shall be as binding and effectual, to all intents and purposes whatsoever, as if the person giving the same had been the actual proprietor of the lands in respect of which such assent shall be given.

25. Joint tenants to be accounted as one person.

And be it Enacted, That joint tenants, tenants in common, and co-parcenars jointly interested in any portion of land proposed to be drained or improved, shall, in respect of the land in which they are so interested, be accounted as one person: Provided always, That the concurrence of the person or persons interested in, or possessing Two-thirds

thirds of the estate or interest in such portion of land shall be sufficient for the purpose of giving such assent as aforesaid.

26. Concurrence of lessee holding for a life or lives, or for a residue of a term of years of which not less than *Seven* Years are unexpired, to be necessary in certain cases.

And be it Enacted, That where any portion of land proposed to be drained or improved by drainage shall, at the time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease or agreement in writing for a lease, for a life or lives, or for a term of years, whereof more than *Seven* Years shall be then unexpired, and in respect whereof such person shall not be qualified or entitled to give such assent, then the consent in writing of such person shall be necessary in order to give validity to the assent of the proprietor, in respect of the lands comprised in such grant, lease or agreement.

27. Where the weir, dam, &c. of a mill or factory causes occasional flooding, the Commissioners shall have power to construct works for the discharge of the surplus water, and shall declare the level of the water at which the working water-power shall be secured.

And be it Enacted, That in cases where, from the damming up of any river or stream by the weir, dam or other work or obstruction of any mill or factory, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Commissioners to construct any reservoir, embankment, tunnel or back-drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in the dams, weirs, works, obstructions or watercourses connected with such mills or factories which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharges of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any such mill or factory shall not be thereby lessened; and the level of the water at which such amount of working water-power shall be secured, shall be previously inquired into and ascertained by the said Commissioners; and all persons interested in such mill or factory or in any land to be drained as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinbefore directed to be held, or at any meeting or meetings to be called by the said Commissioners for the purpose; and the said Commissioners shall then and there hear and decide upon all such objections, and declare what such level shall be, and shall state the same in the declaration hereinafter directed to be made by the said Commissioners; and the said Commissioners, in case they shall so interfere with any such mill or factory, shall also cause a stone cill or gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory, on which shall be marked in clear and legible figures or letters the due and proper level of water ascertained and declared as aforesaid.

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Where the weir, dam, &c. of a mill or factory by flooding causes injury, or prevents improvement to an extent equivalent to the value of such mill or factory, all necessary alterations may be made therein, if the water-power be not lessened thereby.

And be it Enacted, That if any weir, dam or other work or obstruction connected with any mill or factory shall cause the flooding of any lands included in any district in which this Act shall be brought into operation, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such lands, or prevent their improvement, and if such flooding cannot, in the opinion of said Commissioners, be otherwise remedied or prevented, it shall be lawful for the said Commissioners, so far as shall be necessary for remedying or preventing such flooding and injury, or such impediment to the improvement of such lands as aforesaid, to alter any such dam, weir, work or obstruction, or the position or level thereof, and to raise or lower or alter any water-wheel or any machinery immediately attached thereto, and the levels of the head and fall of any water to such mill or factory: Provided always, That in all cases where any such raising, lowering, or alterations as aforesaid shall be effected, the amount of working water-power of such mill or factory or water-wheel shall not be in anywise lessened thereby, and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising, lowering, modification and alteration respectively, or necessary or proper and sufficient for the due, convenient and permanent working of such mill or factory, with such full amount of working water-power, shall be made, provided, erected, fitted and placed by such Commissioners in a workmanlike manner, and with proper and durable materials, and that such Commissioners and the Trustees to be appointed as hereinafter mentioned, shall (save as hereinafter provided) from time to time, and at all times, uphold, maintain and keep in repair all such additional sluices, cuts, dams, gates and other works as shall be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which shall be provided or imposed in relation to any lands in such district under the provisions of this Act: And provided also, That nothing in this Act contained shall be deemed or construed to confer on any owner or occupier of any mill or factory any right to any water in respect to such mill or factory to which he would not be entitled if this Act had not been passed.

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Where the weir, dam, &c. of any mill or factory causes injury, or prevents improvements to an

And be it Enacted, That if any weir, dam, or other work or obstruction, belonging to or connected with any mill or factory shall cause the flooding of any such lands included in any such district as aforesaid, so as thereby to injure such lands, or prevent their improvement to an extent in value equivalent to or exceeding *Three* times the

the then present value of such mill or factory, it shall be lawful for the said Commissioners, in case they shall not agree for the purchase of such mill or factory, weir, dam and other work, and in case, in the opinion of the said Commissioners, it shall be necessary that same shall be taken by said Commissioners for the purpose of draining or improving by drainage such lands, to proceed to take same, and to award compensation for the value thereof, in like manner and subject to the like appeal as by this Act provided in reference to any land to be taken by the said Commissioners for the purpose of any works to be executed under this Act.

extent in value three times greater than the value of such mill or factory, same may be taken by the Commissioners at a valuation as any land under this Act.

30. Provided that before any mill or factory shall be interfered with, the declaration shall contain the necessary statements with respect thereto.

Provided always, and be it Enacted, That before the said Commissioners shall proceed to take any such mill or factory, and the works connected therewith, as aforesaid, or to effect any such constructions, erections, lowering, raising, or alteration as aforesaid, the said Commissioners shall insert in the declaration, which they are hereinafter required to make, such statement with respect to the several matters aforesaid as hereinafter directed to be made in cases where any mill or factory is proposed to be interfered with.

31. Commissioners shall make declaration;

And be it Enacted, That at or after the meeting hereinbefore directed to be convened by the said Commissioners, and if or when and so soon as the proprietors of *Two-thirds* or more in extent of the land proposed to be drained or improved by drainage shall have assented in writing to the execution of the proposed works, the said Commissioners shall make and sign a declaration, describing the land proposed to be drained or improved, and declaring the then actual value thereof, and the estimated increase in such value by means of the proposed works, and the proportions with which such land shall be chargeable towards the costs of the proposed works, such proportions being fixed according to such actual value and such estimated increase as aforesaid; and also stating therein the names, additions and residences of the proprietors who shall have assented to the execution of the proposed works, and the land belonging to them respectively, and in respect of which they shall have so assented; and in such declaration shall also be described the river (if any) the navigation whereof is proposed to be improved, and the baronies, half baronies or townlands in the district likely to be benefited by the improvement thereof, and the proportions in which such baronies, half baronies and townlands will be so benefited; and in all cases wherein any mill or factory, or any weir, dam or other work or obstruction belonging to or connected with any mill or factory, shall cause flooding, so as thereby to injure or prevent the improvement of such land as aforesaid, it shall be stated in such declaration that such mill or factory, or such weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether such

stating the names of assenting proprietors;

and in cases of navigation, the baronies, &c. benefited;

and in cases when injury is caused by any mill or factory, &c. the amount of injury caused by same, and the restrictions under which same may be taken or interfered with.

such injury or prevention of improvement be to an extent in value or exceeding Three times the value of such mill or factory; and in case such injury or prevention of improvement be to an extent in value less than Three times the value of such mill or factory, it shall be stated in such declaration whether, in the opinion of the Commissioners, the flooding of said lands cannot be remedied without altering such dam, weir, work or obstruction, or the position or level thereof, and also the amount of the actual working water-power of such mill or factory, also the level of the water at which the amount of working water-power theretofore enjoyed by such mill or factory can be secured; and such declaration shall be printed, and copies thereof deposited with the Clerk of the Peace, and (when it is proposed that any navigation shall be improved by such works) with the Secretary of the Grand Jury, of each county in which the land or river or any part thereof proposed to be drained or improved by drainage is situate, and also in such convenient places as the said Commissioners shall think fit; and in all cases where it is proposed to interfere with any mill or factory, or any works or appurtenance thereof as aforesaid, the said Commissioners shall deliver or cause to be delivered to the owner or occupier of any such mill or factory, or to his clerk, agent or servant superintending the same, a copy or duplicate of such declaration as aforesaid, together with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill or factory; and all persons may inspect and take extracts of or copies from such declaration; and all persons requiring copies of or extracts from such declaration, to be made by such Clerk of the Peace, shall have the same on payment of the costs thereof, not exceeding *Two-pence* for every Seventy-two words.

Declaration to be printed, published and deposited for public inspection;

and in cases of mills or factories, &c. a copy shall be served on the owners, &c. thereof.

32. And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published in some newspaper usually circulated in the district in which the land or river proposed to be drained or improved shall be situate, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in every barony of the county in which any part of such district shall be situate; and each copy of such notice which shall be so posted shall have annexed thereto a list of the names, additions and residences of the proprietors who shall have so assented as aforesaid.

Notice to be given of the places where copies of the declaration shall be deposited.

33. And be it Enacted, That if any person shall be aggrieved by the declaration which shall be so made by the said Commissioners, or by any thing contained therein or omitted therefrom, or by any other act, deed, matter or thing whatsoever, done or omitted to be done by the said Commissioners under or by virtue of the provisions hereinbefore contained, or any of them, it shall be lawful for such person to appeal against

General Appeal to Assistant Barrister.

against or in respect of such declaration, or any such act, deed, matter or thing, to the Assistant Barrister, at the first Quarter Sessions of the Peace for the county wherein any part of the land or river proposed to be drained or improved shall be situate, which shall be holden next after the publication of such declaration, or after the time when the act, matter or thing shall be done, or the cause of complaint shall have arisen in respect of which such appeal shall be made; and the person so appealing, if there shall be sufficient time, shall give *Fourteen* Days' notice at least, in writing, of his intention to bring such appeal, and of the making thereof, to the said Commissioners, and within *Four* Days after the date of such notice, enter into recognizance before some Justice of the Peace for such county, in the sum of *Thirty Pounds*, with Two sufficient sureties, each in a sum of *Fifteen Pounds*, conditioned to try such appeal, and to abide by or to submit to such order as shall be made thereon, and to pay such costs as shall be awarded by the Assistant Barrister at such Quarter Sessions, or any adjournment thereof; and for want of sufficient time for giving such notice previous to the next Quarter Sessions, then such appeal and under such recognizance may be made at the second General or Quarter Sessions be holden for such county.

34. Proceedings before the Assistant Barrister.

And be it Enacted, That the Assistant Barrister at such first or second Quarter Sessions, or any adjournment thereof, upon due proof of such notice having been given as aforesaid, and of the entering into such recognizance, shall hear and determine the matter of such appeal, and make such written order or decision thereon as to him shall seem fit; and in all cases where it shall be proposed to interfere with any mill or factory, or any works or appurtenance thereof, and the appeal shall have been brought by any person interested therein and in respect thereof, the said Assistant Barrister shall further inquire and determine, if required so to do, under which of the powers hereinbefore given it shall be lawful for the said Commissioners to proceed with respect to such mill or factory; and such Assistant Barrister may order the costs of any such appeal to be paid wholly or in part by the said Commissioners, or the party appealing; and if same shall be ordered to be paid by the party appealing, such Assistant Barrister may, by a warrant under his hand, direct same to be levied by a distress and sale of his goods and chattels: Provided always, That nothing herein contained shall be construed to authorize or empower any Assistant Barrister to make any order directing that the general execution of the proposed works shall not be proceeded with unless it shall appear before him that the proprietors as aforesaid of *Two-thirds* in extent of such lands have not assented, as hereinbefore required, or to make any order affecting the peculiar mode of construction of any of the works which shall have been approved of by the said Commissioners, or to

make any order affecting the costs of carrying the said proposed works into execution: Provided, That in all such cases of appeal respecting mills or factories only as hereinbefore mentioned, if the said Commissioners or the party so appealing shall be dissatisfied with such decision of such Assistant Barrister, it shall be lawful for such Commissioners or party, within *One Month* after such decision, to apply by petition in a summary way to the Court of Chancery or Exchequer, by way of appeal against such decision, and such Court may direct the notes of the evidence taken on such hearing to be furnished by such Assistant Barrister, and shall make such order thereupon, whether for a re-hearing before such Assistant Barrister, or otherwise, as shall appear just: Provided also, That the proceedings on such petition shall not, in case the decision of such Assistant Barrister shall be in affirmance of such declaration, stay the prosecution of such works, but the Commissioners may proceed with the same, subject to such order of such Court respecting the prosecution, modification or stoppage of such works, or respecting such mill or factory, or for compensation to the party interested therein, or otherwise, as the Court may deem just; and such order shall be binding and conclusive on all persons whomsoever.

35. Commissioners to give a final notice that all the requisites of the Act have been complied with.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the Assistant Barrister as aforesaid, shall have been taken, observed and disposed of, then the said Commissioners shall give a final notice that all the requisitions of this Act, with respect to the land or river proposed to be drained or improved, have been duly complied with, and a copy of such notice, signed by the said Commissioners, shall be published in the Dublin Gazette, and in some newspaper usually circulated in the district wherein such land or river shall be situate, or in the vicinity thereof, and shall be posted on the usual places for posting Grand Jury notices in the barony or baronies in which such district shall be situate.

36. Publication of notice to be conclusive.

And be it Enacted, That the publication of any such final notice shall in every case to which same may relate be deemed final and conclusive evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed, have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the said Commissioners under any of the provisions hereinbefore contained, save by such petition to the Court of Chancery or Exchequer as aforesaid.

37. As to expenses of preliminary proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of

of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be defrayed accordingly, and the sum of money (if any) deposited by or on behalf of the person by or on behalf of whom such memorial as aforesaid shall have been presented, shall be repaid to such person without deduction out of any monies which shall be raised by the said Commissioners under the provisions hereinafter contained; but if in any case the said Commissioners shall determine that it is inexpedient to drain or improve the land or navigation of the river referred to in any such memorial, or if the necessary assents hereinbefore required to be obtained shall not be given to the execution of the proposed works, then and in any such case all expenses which shall have been incurred shall be defrayed out of the sum of money which shall have been deposited with the said Commissioners under the provisions in that behalf hereinbefore contained; and if such sum of money shall be insufficient to pay such expenses, then the balance thereof, shall be paid or payable by the person who shall have presented such memorial as aforesaid, and the same shall be recoverable from such person by the said Commissioners by civil bill, or by such proceedings in any of the Superior Courts of Record in Dublin as the said Commissioners shall think proper to adopt: and in all cases where a memorial shall have been presented by or on behalf of any Grand Jury, it shall be lawful for the said Commissioners to issue and transmit to the Secretary of such Grand Jury a certificate, specifying the amount of such expenses which shall have been incurred on behalf of such Grand Jury, and same shall be paid out of the sum which shall have been deposited on behalf of such Grand Jury; and if such sum so deposited shall be insufficient to pay such expenses, then the balance thereof, shall be presented by the Grand Jury assembled at the next Assizes to be holden subsequent to the issuing of such certificate as aforesaid for the county by or on behalf of the Grand Jury of which such memorial shall have been presented; and in default of such presentment being made at such Assizes, the Court at such Assizes or any subsequent Assizes, shall order such amount to be raised off such county, and such order shall have the force of a presentment, and the Treasurer of such county shall insert the amount specified in such order in his warrant, and the same shall be applotted, raised and levied as if the same had been duly presented, and shall be paid by the Treasurer of such county to such Commissioners; and in case the sum deposited with the said Commissioners by any such person, or by or on behalf of any Grand Jury as aforesaid, shall be more than sufficient to defray the expenses aforesaid, then the surplus shall be returned to the person or to the Treasurer of the Grand Jury by whom or on whose behalf the same was deposited with the said Commissioners, and such Treasurer shall keep

keep a separate account of the monies so returned to him as aforesaid.

38. After publication of notice, Commissioners may commence proposed works.

And be it Enacted, That at any time after the publication of any such final notice as hereinbefore mentioned, the said Commissioners may, in case it shall seem to them expedient, commence and proceed with the works proposed to be executed for the drainage or improvement of the land or navigation of the river to which such notice may relate.

39. Commissioners to appoint officers.

And be it Enacted, That it shall be lawful for the said Commissioners to appoint, employ and dismiss at pleasure, such engineers, surveyors, clerks, collectors, receivers or other necessary officers, and pay and allow out of the funds at their disposal under this Act to such engineers, surveyors, clerks, collectors, receivers and other officers, such yearly or other salary or wages as the said Commissioners shall think fit; and all and every the person or persons employed as aforesaid shall, when required so to do by the said Commissioners, render to them a true and perfect account of all monies which shall have been received and paid by them respectively by virtue of such employment, with proper vouchers for the same, and shall pay to the said Commissioners, or such person as they shall authorize to receive the same, all such sums as shall be due to the said Commissioners from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Commissioners; and in case any person who shall be so employed as aforesaid shall refuse or neglect to render such account and make such payment as aforesaid, or to deliver up such vouchers, books and writings to the said Commissioners, or to such person as they shall empower to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at Petty Sessions assembled, to inquire into the matter of such default in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any One or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the county, there to remain for any time not exceeding *Twelve* calendar Months, or until he shall have made a perfect account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Commissioners, which composition and agreement the said Commissioners are hereby empowered to make.

All officers to account.

40. Reservoirs and embankments to be made.

And be it Enacted, That it shall be lawful for the said Commissioners, at their discretion, and for the purposes of this Act, to make reservoirs or embankments with valves and cloughs to draw the water

water from or out of such reservoirs, and also cuts, acqueducts, feeders, byewashes, spill-waters, weirs, dams, banks, drains, sluices and other works for securing a supply of superabundant or flood waters to said reservoirs or embankments, or for leading the waters therefrom, with overfalls for allowing the escape of water, and for the protection, security, cleansing, repair and maintenance of such reservoir and other works, and also to provide and keep in repair, near each of the said reservoirs, a house with necessary accommodations for the residence of a person to superintend such reservoir and other works; and such person shall have full power and authority (subject nevertheless to the control of the said Commissioners) to superintend and regulate the outlet of water from such reservoir, and all matters and works connected therewith; and it shall also be lawful for the said Commissioners to make any road or way in lieu of any existing road or way which it may be necessary to divert or occupy for the purpose of making any such reservoirs, embankments or works, and to make and maintain all such other roads or ways in, through, over or upon any land near to or adjoining any of the said reservoirs as they may find expedient for enabling them and their engineers, surveyors, agents, officers, workmen, servants and other persons in their employ, to have access to such reservoirs, embankments and works, or any of them, with or without cattle, carts or carriages.

41. Power to divert the surplus waters of rivers, &c. adjoining the reservoirs.

And be it Enacted, That it shall be lawful for the said Commissioners to make such feeders or channels, with such cut-waters, drains and other works as they shall deem proper, for collecting and conducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

42. Where reservoirs or embankments are not necessary for drainage, but may be useful for mills or factories, Commissioners may make same, with consent of proprietors of mills equal in the value of their working power to Two-thirds of the value of the working

And be it Enacted, That for the purpose of maintaining a constant supply of water for mills or factories on any river or stream, or preventing sudden floods therein, it shall be lawful for the said Commissioners, with the consent of the proprietors of such mills or factories, the value of the working-water power of which shall be equal to *Two-thirds* of the value of the working-water power of the whole of the mills or factories which shall be then existing on such river or stream, to make reservoirs or embankments, and to impose a tax or rate on the whole of the mills and factories along said river or stream which shall be benefited thereby, or on such new mills or mill-sites as shall or may be formed thereon and benefited thereby, for the

power of all the mills on the river.

purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred, such benefit to be calculated by the said Commissioners upon each foot of fall of water which shall appertain to each such mill or factory; and the said Commissioners shall have such and the like power and authority to recover the amount of rate which shall be so fixed and determined by them as are by this Act given to them for the recovery of any other rate or charge imposed hereby; and it shall be lawful for the said Commissioners to borrow money, for the purpose of making such reservoirs or embankments as last aforesaid, upon the security of the taxes or rates which they are hereby empowered to impose on such mills or factories as aforesaid: Provided always, That it shall not be lawful for the said Commissioners to make any such reservoir or embankment, or to take away, injure or prejudicially affect any land or lands for the purpose last aforesaid, without the consent for that purpose first had and obtained in writing of all persons having any estate or interest in such lands greater than a term of Seven Years: And provided further, That in each case, before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publication of such final notice as aforesaid, in cases where drainage or improvement by drainage is proposed to be affected, or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed; and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, published and posted in such manner as the final notice hereinbefore mentioned, which shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given shall and may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

43. In cases of reservoirs, &c. who shall be deemed proprietors of mills or factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, any person shall be deemed a proprietor of any such mill or factory, as last aforesaid, who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any land proposed to be drained or improved by drainage under the provisions of this Act.

44. Weirs may be altered or removed, making compensation to the owners thereof.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time at their discretion, to alter or remove any fishing weir erected in or upon any stream of water or any impediments whatsoever in or on any river, stream or watercourse, which now or hereafter shall be within the district within which it may be proposed

proposed that the said works shall be executed (subject, as regards weirs or dams of mills or factories, to the provisions herein contained), making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs, rivers, streams or watercourse, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned in case the said Commissioners shall not be able to come to an agreement for same with such proprietors or persons.

45. In all cases Commissioners shall have power to remove or alter dams, if the proprietors thereof consent in writing to such removal and alteration.

And be it Enacted, That in all cases it shall be lawful for the said Commissioners to take, remove or alter any mill or factory, dam, weir, or other obstructions connected with any mill or factory, with the consent of the owner or owners thereof, and parties interested therein, signified in writing, to such taking, removal or alteration.

46. Power to remove or alter mills, dams, &c. where necessary for navigation.

And be it Enacted, That in all cases where a navigation is proposed to be created or improved in conjunction with drainage, and it shall be necessary for the purpose of such navigation to remove or alter any mill, factory, dam, weir, sluices or other appurtenances belonging to any mill or factory, it shall be lawful for the said Commissioners to remove or alter same, on payment or tender to the occupier or occupiers, proprietor or proprietors thereof, of such sum for the purchase thereof, or as a compensation for the injury thereto, and in such proportions respectively as shall be awarded by the said Commissioners, or shall be determined by the Assistant Barrister or a Jury on an appeal, as hereinafter provided.

47. Power to Commissioners, in case the mill-power be improved with owner's consent, to rate the mill-owner towards the expenses of the works.

And be it Enacted, That in case the proprietor of any mill or factory shall consent that any dam, weir or watercourse or other work or obstruction connected with such mill or factory, shall, for the purpose of drainage to be effected under this Act, or for the improvement of the water-power of the said mill or factory, be altered and re-built, or that such mill or factory shall thereby or by means of any reservoir obtain any increased water-power, it shall be lawful for the said Commissioners to fix and determine the amount of rate or contribution which shall be paid by the proprietor of such mill or factory for the improvement which shall be so effected, towards the repayment of the costs and expenses of the works to be executed within the district within which such mill or factory is situate, and the rate which shall be paid in future for such increased water-power from such reservoir; and the said Commissioners shall have such and the like powers and authorities to recover the amount of rate which shall be so

fixed and determined as are given to them by this Act for the recovery of any other rates or charges imposed hereby.

48. Any improvement made in the dams to mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That in all cases in which, in the progress of the execution of any work under the provisions of this Act, any mill or factory shall be stopped from working, and compensation shall be awarded for any injury resulting therefrom, it shall be lawful for the said Commissioners, or the Assistant Barrister or Jury, to set off against the same the value of any benefit resulting from any improvement which shall be effected by the execution of such works, in the water-power of, or constancy of supply of water to, such mill or factory, or by the relief from back-water afforded to it.

49. Commissioners may appoint persons to open floodgates, &c.

And be it Enacted, That the Commissioners or Trustees hereinafter mentioned may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, stream or drain which shall be improved or made under the provisions of this Act, appoint a proper person for the regulation, opening and closing of any floodgates, sluices, stopgates or stops of any weir, dam or other work connected with any mill or factory which may have been in any respect interfered with by the said Commissioners, or of any weir, dam or other work which may be under the care or control of the said Commissioners, or vested in or erected by them under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close same for the purposes aforesaid, subject nevertheless to the control, orders and directions of the said Commissioners; and all expenses of maintaining same and the sills and gauges hereinbefore directed to be erected, and of remunerating said person employed to regulate same, shall, save as hereinafter provided, be defrayed by the said Commissioners or Trustees respectively out of the funds and rates which shall be levied under the provisions of this Act.

50. Owners or occupiers not to be exonerated from making such repairs as were necessary before the passing of this Act.

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or mill-site, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, stream or watercourse, or to maintain any dam or sluice or floodgate, or any engine, contrivance or other work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever, as he may or would have been respectively subject or liable to if this Act had not been made.

51. Remedy by summary application to

And be it Enacted, That any person interested in any mill or factory affected or proposed to be affected by any thing to be done under the

the provisions of this Act, may apply, by petition, in a summary way to the Court of Chancery or Exchequer, complaining that the due amount of water-power has not been properly secured to or for such mill or factory, or that any act has been done, or has been threatened or proposed to be done, by the said Commissioners, or by any person acting or pretending to act under the provisions of this Act, by which injury has been or may be sustained by such mill or factory, or by such person so interested in respect thereof, and which act may not be authorized by this Act; and thereupon such Court shall make such order and direct such proceedings, whether before one of the Masters or the Chief or Second Remembrancer of such Court respectively, or by directing any issue or issues to be tried before a Judge and Jury at the Assizes, or before the Assistant Barrister and a Jury, or otherwise, as such Court may order; and thereupon it shall be lawful for such Court to direct such works to be made by such Commissioners as to such Court of Chancery or Exchequer shall seem necessary or proper; and to make, from time to time, such further or other order, whether for compensation to any party interested in such mill or factory, or for restraining the Commissioners or any other person from doing any act or otherwise, as to such Court shall seem just, and to issue any writ or writs of injunction for any of the purposes aforesaid for which the same may be required: Provided always, That such petition shall be presented within *Six* Months after the subject-matter of such complaint shall have arisen, and that such Court shall have power to award costs to either party.

the Court of Chancery or Exchequer in the event of Commissioners failing to secure the due amount of water-power to the owner of mill or factory.

52. And be it Enacted, That it shall be lawful for the said Commissioners to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, to make and execute all such works as shall be described in the maps, plans and sections hereinbefore mentioned, or such deviations therefrom, or such other works as they shall deem necessary for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any land whatsoever, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, drain, brook, pool or watercourse running through such land, and to make, open and cut in or upon the same any new watercourse side-cut, ditch or drain, and to alter or remove any bank, sluice, floodgate, lock, drain or tunnel, and to make or erect any wharf, landing-place, pier, quay, harbour, bank, sluice, floodgate, lock, lock-house or other building, drain, tunnel, towing-path or other works necessary for drainage or improvement of the navigation, and to dam, bar and stop up, with any weir or dam, any river, brook, pool, stream or watercourse, and also to make upon such land any embankment against the sea, or any lake, river, stream or watercourse, and to put and place

Power to execute works.

on such land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such land, or for the better conveying the waters from the said land into the sea, or into any river, lake, stream or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river, lake, stream or watercourse, for the purpose of supplying water to any mill or factory, or to any site proper for the erection of a mill or factory thereon, or of keeping back a sufficiency of water for the use of cattle, or for the irrigation or warping of lands where such irrigation or warping shall be wanted, and shall be a beneficial manurance to such lands, and also to stop up or divert any road, or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, watercourse or side-cut now existing or to be made as aforesaid, and also to do all such things, and erect such steam and other engines, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

53. Commissioners may enter lands and dig for materials, on making compensation.

And be it Enacted, That it shall be lawful for the said Commissioners, or any engineer, workman or other person authorized by them, after *Three* Days' previous notice, to enter into, and to search for, dig, take and carry away materials out of any land lying within or contiguous to the land or river proposed to be drained or improved, for the purpose of executing or repairing any works under the provisions of this Act, making such compensation for the surface damage done to the proprietors, lessees or occupiers of such lands, according to their respective interests therein, as to the said Commissioners shall seem fit and reasonable; and in case of dispute, such compensation shall be settled on a summons, to be issued for that purpose, by any Two or more Justices of the Peace for the county in which such land is situate, at petty sessions.

54. Commissioners to fill up holes and pits not found useful, and fence off those that may be useful.

And be it Enacted, That if by reason of the searching for, digging or getting any materials as aforesaid, any pit or hole be made in any common or other land wherein such materials shall be found, the said Commissioners shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be used, and shall within *Six* Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further

further useful, the said Commissioners shall cause the same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

55. Power to Commissioners to make drains through land not proposed to be drained, compensation being made for damage done.

And be it Enacted, That if it shall be necessary for improving the outfall of any land, or for the purpose of carrying off water from any land to be drained, or from any drain to be made, scoured out or enlarged under the authority of this Act, to scour out, widen or enlarge any river or drain, or to make any drain, culvert or tunnel through any land not included in such district as aforesaid, it shall be lawful for the said Commissioners to enter upon said land, and to scour out, widen, straighten or enlarge such river or drain, or to make such drain, culvert or tunnel, due compensation being made by the said Commissioners for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained.

56. Commissioners authorized to enforce the cleansing of drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse, river or rivulet lying below or between or in any land authorized to be drained by virtue of this Act, or the outfall thereof, the said Commissioners may require such person to scour out and cleanse the same; and in case such person shall neglect, within Fourteen Days after notice in writing given to him or to the tenant of the land in respect of which such liability exists, or left at the usual abode of such person or tenant, to cleanse any such drain, sewer, watercourse, river or rivulet, to the full and proper width and depth, the said Commissioners may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of such person or tenant, together with the charges attending such distress and sale.

57. Any party whose lands may be injured by the neglect to maintain the banks or scour the channels of existing drains, streams or rivulets, may, upon service of notice upon parties who shall neglect to scour or maintain same, proceed therewith and recover a pro-

AND whereas by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks, and cleanse and scour the channels of existing drains, streams or rivulets lying in or forming the boundaries of or leading to the outfall from such lands, much injury is done thereto and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where, by reason of the neglect of any such proprietor or occupier to maintain the banks, or cleanse and scour the channels of existing drains, streams or rivulets, lying in or bounding the lands of such proprietor or occupier, injury shall be caused, it shall be lawful for the proprietor or occupier of any land injured thereby, to require the proprietor or occupier so neglecting

portion of expense from such neglecting parties, by civil bill.

ing as aforesaid, by a notice in writing, delivered to him or left at his usual place of abode, to join in the effectual maintaining such banks, or in the cleansing and scouring of the channels of such drains, streams or rivulets; and in case he shall refuse effectually so to do, it shall be lawful for the proprietor or occupier of the land to which such injury shall be caused, immediately after the expiration of *Fourteen* Days from the service of such notice as aforesaid, to proceed with the maintaining and repairing of such banks, or the cleansing and scouring of such channels as aforesaid, and to sue for and recover from such neglecting proprietor and occupier the entire or such just proportion of the expenses attendant thereon as he may be liable to, by civil bill, before the Assistant Barrister of the county wherein such drain, stream or rivulet, or the part thereof which shall be cleansed and scoured shall be, and as may be fixed and determined by such Assistant Barrister, who shall have power to fix and determine the same, and to award, in addition to the usual costs, such further costs to be paid by such party, and in such manner as to him shall seem reasonable: Provided always, That in all such cases when such drain, stream or rivulet shall not be a boundary between the adjoining lands of such proprietors or occupiers as aforesaid, it shall not be lawful for any such proprietor or occupier to proceed to maintain and repair the banks, or cleanse and scour the channel of such drains, stream or rivulet as last aforesaid, unless he shall first obtain a warrant or authority in writing so to do from Two or more Magistrates assembled in Petty Sessions for the county or counties wherein such drain, stream or rivulet, or the greater part thereof, shall be situate, and which warrant or authority the Magistrates are hereby empowered and required to grant, if, upon inquiry had before them, upon a summons to be served upon the proprietors or occupiers of the lands in which such drain, stream or rivulet shall be, and who shall have neglected to cleanse or scour the channels, or maintain the banks of same, it shall be proved that the neglect so to do causes such injury or prevents such improvement.

58.
If cuts be made, which shall injure roads or bridges, Commissioners to make roadways and bridges.

And be it Enacted, That if by any cut, drain or other works made under the authority of this Act, any road or way shall be disturbed or interrupted, or any land intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioners shall, if the same shall appear to them necessary, cause other convenient roads or ways to be made, and any bridges which may be required, to be properly built for the use of the persons entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges, out of the monies to be received by virtue of this Act: Provided always, That it shall be lawful for the said Commissioners, if they shall think fit, to contract and agree with the

the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties, or any of them, and to pay the sum contracted and agreed to be paid out of the monies to be received by virtue of this Act: Provided always, that in case the said Commissioners shall be able to agree with the persons interested in such roads, ways or bridges, for compensation in respect of the damage occasioned in relation to the same, it shall be lawful for them so to do.

59. Where existing bridges, culverts or archways are insufficient for the discharge of water under a public or county road, same may be re-constructed by the Commissioners.

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public or county road shall, in the opinion of the said Commissioners, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause or tend to cause the flooding of or other injury to any of the land to be drained or improved by the proposed works, or where, by means of any of such works, any public or county road shall be relieved from periodical flooding, it shall be lawful for the said Commissioners to have the same reconstructed in such manner as to them shall appear sufficient, and to determine, by a declaration in writing under their hands and seals, the proportions of the expenses of such reconstruction or relief from flooding, which shall be defrayed by the county or counties respectively, or any barony or half barony of such county or counties within which such bridge, culvert, archway or road, or any part thereof, may be situated; and a duplicate of such declaration, under the hands and seals of such Commissioners, shall, within *One Month* from the date thereof, be transmitted to the Secretary of the Grand Jury of each such county; and such declaration shall be published in *Three* successive impressions of some newspaper circulating in such county thereby made chargeable with any part of such expenses, and shall be posted at the usual places of posting Grand Jury notices in the barony or half barony in which such bridge, culvert, archway or road, or any part thereof, shall be situate, such publication and posting to be made within *One Fortnight* after the date of such declaration; and it shall be lawful for any person paying Grand Jury cess for such county, barony or half barony, to traverse such declaration at the Assizes which shall be holden for such county, not less than *Thirty* Days after such declaration shall be transmitted to such Secretary, as if the same were a presentment for damages made under any Act or Acts in force relating to the presenting of public money by Grand Juries in Ireland; and such reduced sum, if any, as shall be found upon such traverse, shall be inserted in such declaration by the Court before which such traverse shall be tried; and the Grand Jury of such county is hereby empowered and required at such Assizes (and without application to Presentment Sessions) to present the sum or sums of money mentioned in such declaration (whether

as originally made, or as altered upon such traverse, as the case shall be), to be levied off the said county, barony or half barony; and in case such Grand Jury shall refuse to present the sum so mentioned in such declaration, or which shall be found by and upon such traverse, the Judge of Assize shall make an order directing that the Treasurer for such county shall insert such sum in his warrant, and the same shall be levied off such county in the same manner as if the same had been duly presented by such Grand Jury; and thenceforth such bridges, culverts, archways and roads shall be repaired and maintained by such county or counties as were theretofore liable to repair and maintain the same.

60. Commissioners to provide in dams and weirs for the migration of salmon, trout and eels.

And be it Enacted, That in the construction, alteration or re-modelling of any dams, weirs or other works in the bed of any river to be improved under this Act, it shall and may be lawful for the said Commissioners, whenever they shall deem the same necessary, so to construct, alter or re-model the same as to provide sufficient means in some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

61. Works not to injure any ornamental water, nor the supply of water to towns.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to interfere with ornamental water in any private demesne or park, without the previous consent in writing of the owner thereof, or of his guardian or committee, in case of infancy or lunacy, nor to curtail or cut off the supply of water to any town without previously making adequate provision in lieu thereof.

62. Nor to encroach upon parks, demesnes or inclosed gardens.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to encroach, by their works or otherwise, upon any walled-in park, gardens or demesne, without the consent in writing of the owner thereof.

63. When lands cut through shall be less than an acre in quantity, or less than Fifteen yards wide, Commissioners to purchase the whole if required.

And be it Enacted, That if, in the execution of any of the works authorized by this Act, any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property, so that there shall be left on each or either side of the said works, or any of them, less than *One statute Acre* in quantity, or less than *Fifteen* Yards in breadth, then and in every such case the said Commissioners shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided) take and purchase such piece or parcel or pieces or parcels, so to be left as aforesaid, of such field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

64. Commissioners may purchase land.

And be it Enacted, That it shall be lawful for the said Commissioners to purchase any land which they shall think it necessary or proper

to

to purchase for accomplishing any of the purposes of this Act, making such reasonable satisfaction and recompense to the person entitled to or interested in such land as shall be settled and ascertained in manner hereinafter mentioned, in case the said Commissioners shall not be able to come to an agreement for the same with such person.

65. Notices to be given to proprietors of land required for or likely to be affected by the proposed works, requiring them to furnish to Commissioners their claims.

And be it Enacted, That the said Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors or occupiers, or reputed proprietors or occupiers, and all persons interested, where the same may be known to the Commissioners, of and in all such land, as may be required to be taken for, or be liable to be injuriously affected by, the works proposed to be made under this Act, requiring such proprietors, occupiers or other persons to prefer their respective claims before such Commissioners for the value of such land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which such Commissioners shall hold a meeting for inquiring into all such claims, and shall also, *Thirty* Days at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in *Three* successive publications of some newspaper circulating in the county or counties in which such land as aforesaid shall be situated, and to be printed and posted at each place for posting Grand Jury notices in each barony in which any part of same shall be situate.

66. Corporations, trustees and other persons empowered to sell and convey, &c.

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feoffee in trust for charitable or other purposes, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, femme coverte, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant for life or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any land required to be purchased for any of the purposes of this Act, or injuriously affected by any such works as aforesaid, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue

of such ward, wife or person respectively, and to and for any femme coverte entitled in her own right to any such land, or to dower or other interest therein, on behalf, not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife, person or femme coverte respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and femme coverte, on behalf of the person or persons on behalf of whom such ward, wife, person or femme coverte respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same land, and to and for every other person whomsoever, who is or shall be seised or possessed of or interested in any such land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the said Commissioners, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange as shall be determined by the said Commissioners, and also to execute any conveyance, or enter into any contract with respect to the premises which the said Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable by the said Commissioners in respect thereof shall be paid by the said Commissioners out of the monies to be raised by virtue of this Act, as hereinafter mentioned.

67. Form of Conveyance.

And be it Enacted, That all conveyances which shall be executed to the said Commissioners, of any land which shall be required by them for any of the purposes of this Act, shall be in the following form, or as near thereto as the number of parties and the nature of the case will admit; namely,

"I, of in in consideration of the sum of paid to [or, paid into the Bank of Ireland, as the case may be], by the Commissioners appointed under an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, [here set forth the title of this Act], do hereby grant and release to the said Commissioners, all [describing the premises], together with all ways, rights and appurtenances thereunto belonging, and all estates, rights and interests in the same, and every part thereof: To hold to the said Commissioners and their successors for ever, according to the true intent and meaning of said Act. In witness whereof, I have hereunto set my hand and seal, on this day of in the year of our Lord One thousand eight hundred ."

And

68. Satisfaction to be made, and may be accepted.

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such land as aforesaid, and any other owner of any such land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant for a year, or from year to year, or at will, or other occupier of any land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said party interested in such land, or sustaining such injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

69. Commissioners empowered to assess the value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such land as aforesaid, shall neglect or refuse to treat, or shall not agree with the said Commissioners, or, by reason of absence or disability, cannot agree or cannot be found or known, or shall not produce a clear title to the land or the estate or interest which he shall claim therein, to the satisfaction of the said Commissioners, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction or recompense for the same as shall be offered by the said Commissioners, for the space of *Thirty* Days after notice in writing given to the principal officer or officers of such corporation, or to such trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, then in every such case the said Commissioners are hereby empowered, at a time and place to be specified in such notice as last aforesaid, to inquire and examine and assess and award the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the land named or described in such award, or any land held in conjunction therewith; and the said Commissioners shall award such purchase-money or recompense so to be assessed; and the said Commissioners shall and may in such award name or describe the persons (if known to the said Commissioners) to whom respectively the sum mentioned

 therein

therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than one, and the land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the land named and described in such award, or any land held under the same lease or instrument in conjunction therewith; and the said Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly; and such award shall be conclusive and binding upon The Queen's most Excellent Majesty and all other persons interested, except in the case and subject to the provisions hereinafter contained.

70. Any person dissatisfied with the adjudication of the Commissioners may appeal to the Assistant Barrister at Quarter Sessions.

Provided always, and be it Enacted, That if any person interested or claiming to be interested in any land which may be made the subject of any such award as aforesaid shall be dissatisfied therewith, either as respects the amount of the value or the compensation awarded in respect thereof, or of any abatement to be made in any rent, or as respects the persons to whom or the proportions in which such value or compensation is to be paid or abatement made, it shall be lawful for such dissatisfied person to appeal to the Quarter Sessions which shall be held next after any such award shall have been made and settled as aforesaid, for the division of the county wherein such land shall be wholly or in part situate (provided same shall not be held sooner than *Thirty-one* Days after the making of such award), the party appealing, if there be sufficient time after such award, having first given to the said Commissioners *Twenty-one* Days' notice at least of his intention of bringing such appeal, and of the matter thereof; and if there shall not be *Thirty-one* Days between the making of such award and the day appointed for holding such Sessions, then such appeal may be made at the second Quarter Sessions which shall be holden for such division of such county after such award; and the Assistant Barrister at such first or second Quarter Sessions, or any adjournment thereof, upon due proof of such notice having been given, is hereby empowered and required to hear and finally determine the matter of such appeal, either by or without the verdict of a Jury, as the party appealing shall require, and may order such sum to be paid for the costs thereof to be paid wholly or in part by either of the parties thereto, and may, by warrant under his hand, direct such costs so awarded to be levied by distress and sale of the goods and chattels of the party or parties who shall refuse or neglect to pay the same: Provided always, That if no notice of appeal shall be served on the said

said Commissioners within *Fourteen* Days next after their award shall be made, the same shall be final, binding and conclusive upon all persons and to all intents and purposes whatsoever.

71. Jurors to be summoned.

And be it Enacted, That if, in any notice of appeal to be served on said Commissioners as aforesaid, the party appealing shall require a Jury to be summoned for determining the matter of such appeal, then and in every such case the said Commissioners shall issue their warrant, under their hands and seals, to the Sheriff of the county where such appeal is to be heard, commanding such Sheriff to impanel, summon and return a Jury, and such party shall also serve a copy of such notice of appeal on such Sheriff; and the said Sheriff to whom the said warrant shall be directed or such notice given is hereby required accordingly to impanel, summon and return a Jury of Twenty-four men qualified according to law to be returned for trials of issues joined in Her Majesty's Courts in Dublin, to appear before the said Assistant Barrister at such time and place as in such warrant or warrants shall be appointed, not being less than *Fourteen* Days after such warrant shall be served upon the said Sheriff, upon pain to forfeit for every default in not making such return *Five Pounds*, to be sued for and recovered in the manner hereinafter directed, and also to return in issues upon every person so impanelled and returned, who, contrary to the true intent and meaning of this Act, shall not appear, the sum of *Forty Shillings*, which shall be levied by distress and sale of the goods and chattels of the person not appearing as aforesaid, by warrant under the hand and seal of the said Assistant Barrister; and in case a sufficient number of jurymen shall not appear at such time and place, the said Sheriff shall return other honest and indifferent men that can speedily be procured to attend that service, being qualified as aforesaid, to make up the said Jury to the number of Twelve, and all parties concerned shall and may have their lawful challenges against any of the said jurymen; and the said Assistant Barrister is hereby empowered, by warrant under his hand and seal, from time to time, as occasion shall require, to summon and call before him all and every such person and persons as shall be thought necessary to be examined as witnesses touching the matters in question; and the Assistant Barrister may order and authorize the said Jury or any Six or more of them, to view the place or matter in question, which Jury (upon their oaths, to be administered by the said Assistant Barrister, which oaths, as also the oaths to such person or person as shall be called upon to give evidence, the said Assistant Barrister is hereby empowered to administer) shall inquire of, assess and ascertain the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damages that may or shall be sustained as aforesaid, and what abatements (if any) are to be made to any tenant or occupier of such land, and to settle and ascertain in what proportions the sum so assessed shall be paid to the several persons interested in the premises.

Jurors may be challenged.

72. Judgments of Assistant Barristers to be binding on all parties.

And be it Enacted, That in all such cases of appeal as last aforesaid, the said Assistant Barrister shall give judgment for such purchase-monies or recompense, whether same shall have been assessed and ascertained by such Juries, or finally determined by such Assistant Barrister; and the verdicts of such Juries, and the judgments thereon, and the judgments of said Assistant Barrister, where no such verdicts shall be given, shall be final, binding and conclusive to all intents and purposes against all parties, corporations and persons whomsoever.

73. Juryman refusing to be sworn or give verdict to forfeit a sum not exceeding 40 *s.*

And be it Enacted, That if any person summoned as a juryman as aforesaid shall, after his appearance, refuse to be sworn, or, being so sworn, refuse to give or not give his verdict, or in any other manner wilfully neglect his duty in the premises, contrary to the true intent and meaning of this Act, every person so offending, having no reasonable excuse, to be allowed by the said Assistant Barrister, shall for every such offence forfeit and pay any sum not exceeding the sum of *Forty Shillings*, to be levied on the goods and chattels of the person so offending, by warrant under the hand and seal of the said Assistant Barrister, by distress and sale of the offender's goods, rendering the overplus to the owner thereof, after such penalty and the charges of such distress and sale are deducted.

74. Awards, verdicts and judgments to be recorded.

And be it Enacted, That such of the aforesaid awards of the said Commissioners as shall not be appealed from, and the judgments and verdicts so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the counties in which the land in respect of which such awards, judgments or verdicts shall have been respectively made shall be situate, and shall be deposited with the records, and deemed records of such counties respectively to all intents and purposes; and the same, or certified copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of *One Shilling*, or to have copies thereof, paying for every copy the sum of *Sixpence* for every Seventy-two words, and so in proportion for any greater or less number of words.

75. Application of compensation money when amounting to or exceeding £. 200.

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any land which shall belong to any corporation, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any femme coverte, infant, idiot or lunatic, or to a tenant for life, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same land otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of Ireland in the name

name and with the privity of the Accountant General of the Court of Chancery or Exchequer, to be placed to his account there, ex-parte the Commissioners for executing this Act, setting forth the title hereof, and without fee or reward, and shall, when so paid in, there remain until the same shall by order of the said Court, made upon a petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said land, be applied in or towards the discharge of any such debt or other incumbrance affecting the same land, or any other land or property standing settled therewith, to the same or the like uses, trusts, intents and purposes as the said Court of Chancery or Exchequer shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall upon the like application in a summary way be laid out by order of the said Court in the purchase of other land, which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner, as the land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing, undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of Ireland; and in the meantime and until the said stocks, funds or annuities shall be sold by order of the said court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such land so to be purchased, conveyed and settled.

76. When less than £. 200, and amounting to or exceeding £. 20.

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation, or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of Ireland in the name and with the privity of the said Accountant General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid, at the like option and with the like approbation, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the land so to be purchased, taken or used, or damaged or injured

injured as aforesaid, such nomination to be approved of by the said Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of Ireland, without being required to obtain any order of the Court of Chancery or Exchequer touching the application thereof.

77. When less than £.20.

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid, as hereinbefore mentioned, shall be less than Twenty Pounds, then and in every such case the same shall be paid to the person who would for the time being have been entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or, in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

78. The Court may order reasonable expenses of purchasers to be paid by the Commissioners.

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of Ireland, to be applied in the purchase of other land to be settled to the like uses in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said Commissioners out of the monies to be received by virtue of this Act; and the said Commissioners shall from time to time pay such sums of money for such purposes as the said Court shall direct.

79. Premises to vest in the Commissioners, upon payment into Bank of the money agreed upon or assessed, when conveyances cannot be obtained.

And be it Enacted, That if any corporation or person seised or possessed of, or having any estate or interest in, any such land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such land to the satisfaction of the said Commissioners, or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the said Commissioners to pay such sum of money as shall have been contracted and agreed or shall have been adjudged in manner aforesaid to be paid for the purchase or for the value of such land into the Bank of Ireland, in the name and with the privity of the Accountant General of the said Court of Chancery or Exchequer, to be placed to his account to the credit of the party interested in

in the said land (describing such land), or if such party shall not be known, then to the credit of the then unknown person interested in the said land (describing the same), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation or person making claim to such sum of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the same Court shall seem fit, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of Ireland, who shall receive such sum of money, is hereby required to give a receipt for such sum of money, and upon payment of such sum of money into the Bank as lastly hereinbefore is mentioned, the land for the purchase or as the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the absolute interest therein, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand, in law and equity, of the corporation or person, or unknown person, to whose credit such money shall be paid in, to and out of the land, shall vest in the said Commissioners, and they shall be deemed in law to be in the actual seisin or possession thereof to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such land had actually conveyed the same; and such payments shall not only bar all right, title, interest, claim and demand of the corporation or person, or unknown person, of, in or to the same land, to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of such person, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue of such person and every other person whomsoever.

80. In case of questionable title of persons in possession.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of Ireland in the name and with the privity of the Accountant General of the said Court of Chancery or Exchequer, in pursuance of this Act, for the purchase of any land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government or Real Securities, the person who shall have been in possession of such land at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, until the contrary shall be shown to the satisfaction of the said Court;

Court; and the dividends or interest of the Bank Annuities or Government or Real Securities to be purchased with such money, and also the capital of such Bank Annuities or Government or Real Securities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such land, or to some estate therein.

81. Estate of mortgagees to vest in Commissioners on payment of principal and interest;

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any land taken or purchased under this Act, then on payment of the principal and interest due thereon, or the proportion of such principal and interest due on the portion of land so taken, to such mortgagee or person entitled thereto, or into the Bank of Ireland for the use of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, in the portion of land so taken or purchased, shall vest in the Commissioners, and they shall be deemed to be in the actual possession thereof, free from the same mortgage or charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any land purchased or taken under this Act shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged in the land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him, in the said land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Commissioners, and they shall be deemed to be in the actual possession of the said lands to all intents and purposes whatsoever, and freed as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same land.

or if such principal and interest exceed the value of the property, then on payment of the value.

82. Lien shall remain on premises not conveyed in proportions.

And be it Enacted, That when any rent, or any such charge, incumbrance or lien as aforesaid shall also be payable out of, or extend over and be a charge, incumbrance or lien on, any lands other than those which shall be taken or injured by or conveyed to or vested in the said Commissioners, then and in such case neither this Act nor any conveyance so made as aforesaid shall in any respect discharge, affect or alter the force, validity or effect of such charge, rent, incumbrance or lien, so far as relates to such other lands, tenements or hereditaments, but that as to all such the same shall respectively continue, be good, valid

valid and subsisting, subject, nevertheless, to such reduction of rent (if any) as may be made in respect of such lands under the provisions herein contained.

83. Power to enter and take possession of land, &c. on payment or tender of purchase-money.

And be it Enacted, That upon payment into the Bank of Ireland, as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or adjudged in manner aforesaid, for the purchase of any land, or as a recompense for the yearly produce or profits thereof, or as a compensation for damages as herein mentioned to the proprietor of such land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the said Commissioners, or their agents, workmen or servants, immediately to enter upon and use such land.

84. Commissioners may forego the taking of any land on serving a notice, within Six Months from the time of contract or adjudication, that same will not be required.

Provided always, and be it Enacted, That if it shall seem expedient to the said Commissioners at any time or times, within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act, not to take or injure the whole or any part of any land, or other matters or things named or described in such adjudication or contract, it shall be lawful for the said Commissioners to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contracts to be interested in such land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the said Commissioners) shall be utterly void and of none effect, to all intents and purposes whatsoever; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall fix and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and, if necessary, apportion the residue among the persons entitled thereto; and the said Commissioners shall amend such adjudication or contract accordingly; and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal, as any other adjudication or contract under this Act.

85. If the Commissioners make any new site for a mill or factory, same shall be vested in them and

And be it Enacted, That whenever, in executing any of the proposed works, the said Commissioners shall be enabled to make any new site for a mill or factory, such new site may be made by the said Commissioners if they shall think fit, and the same shall be absolutely vested in the said Commissioners and their successors for ever, in

their successors, and they shall have power to purchase land for mill-plot.

trust for the purposes of this Act, and in order that same may be sold, and the purchase-money applied towards defraying the expenses of such works as aforesaid, or in discharge of any debt to be contracted for paying those expenses: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory.

86. Commissioners to sell lands and mills, making first offers to the proprietors of the estate.

And be it Enacted, That the said Commissioners shall, from time to time, sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, water-courses and mill-sites, which shall become vested in them under any of the provisions aforesaid, and which shall not be required to be retained for any of the purposes of this Act; and the produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed in the district in which such lands so sold or disposed of shall be situate: Provided always, That the said Commissioners, before they shall sell or dispose of any of the premises aforesaid, shall first offer the same to the person from whom the same shall have been purchased or taken, or to the person to whose estate the same originally belonged, or whose estate shall adjoin thereto; and if each such person shall refuse to purchase the same, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in said Court, that such offer was made by or on behalf of said Commissioners, and that such offer was refused by the person to whom the same was made, such affidavit shall, in all courts whatsoever, be sufficient evidence and proof that such offer was made and refused.

87. Application of monies received by the Commissioners.

And be it Enacted, That all sums received by the said Commissioners under the provisions of this Act (except for or in respect of the tolls or rates for navigation) shall be paid into the Bank of Ireland to the credit of the said Commissioners, and shall be applied towards the expenses of the several works for drainage, navigation or water-power to be executed under this Act, or towards the repayment of any loan or loans which shall have been or may be made to the said Commissioners for the execution of the said works under the power in that behalf hereinafter contained, and of all other expenses payable by the said Commissioners under the provisions of this Act.

88. Powers to Commissioners to take Tolls.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time and at all times hereafter, to demand, receive, levy and take for or in respect of any river which shall be rendered navigable, or the navigation whereof shall be improved under or by virtue of the provisions of this Act, and also for wharfage or quayage at any pier, harbour, landing-place, quay or wharf, to be

be built, erected or made by the said Commissioners, or vested in them under the provisions of this Act, such rates or tolls as the said Commissioners, with the approbation of the said Commissioners of Her Majesty's Treasury, shall think fit; and it shall be lawful for the said Commissioners to fix the time or times respectively from and after which such rates or tolls shall be payable.

89. Limitation of Tolls.

Provided always, and be it Enacted, That any boat or vessel charged with a tonnage-rate shall not in any event be liable to pay in respect of any voyage a greater amount of toll, exclusive of quayage or wharfage, than *Two Shillings and Sixpence* per ton; and that any boat or vessel charged with a rate per boat or boat load, shall not in any event be liable to pay, in respect of any one voyage, a greater amount of toll, exclusive of quayage or wharfage, than *Eight Shillings* per boat or boat load: Provided also, That no toll or rate whatever, except wharfage or quayage, shall be rated, levied or imposed by the said Commissioners under this Act, upon steam-vessels employed in towing boats or barges, and not carrying at the same time goods or passengers.

90. Tolls may be raised or lowered.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, as they shall think fit, with the approbation of the said Commissioners of the Treasury, to reduce all or any of the rates or tolls by this Act authorized to be taken, and afterwards, from time to time, with the like approbation, to raise the same or any of them to any amount not exceeding the amount hereinbefore specified: Provided also, That if such rates or tolls shall have been let or demised by the said Commissioners, no alteration shall be made therein during the continuance of such lease or demise, unless with the consent in writing of the tenant or lessee.

91. If disputes should arise about the amount of tolls, the collectors may weigh the goods.

And be it Enacted, That if any dispute or difference shall arise between the collectors of the rates or tolls made payable by this Act, and the owner, master or person having charge of any boat, barge or other vessel, or the owner of any goods, wares and merchandize or other things chargeable with or liable to the payment of any of the said rates or tolls, concerning the weight or quantity of the same, it shall be lawful for such collector to stop and detain any such boat, barge or other vessel, and to weigh, measure or gauge, or cause to be measured, weighed or gauged, all such goods, wares and merchandize or other things as shall be in any vessel where and when any dispute shall arise; and in case any such goods, wares and merchandize or other things shall, upon such weighing, measuring or gauging, appear to be of as much weight, measure or quantity as, or of greater quantity than, such collector did insist and affirm the same to be before the weighing, measuring or gauging thereof, so as to make the same

chargeable with or liable to the payment of as much money as, or more money than, was demanded by the collector before the weighing, measuring or gauging of such goods, wares and merchandize or other things, then and in such case the master or owner of such boat, barge or other vessel, or the owner of such goods, wares and merchandize so weighed or measured or gauged, shall pay the costs and charges of such weighing, measuring or gauging thereof, all which said costs and charges, upon refusal of payment thereof on demand, shall and may be recovered as the rates and tolls made payable in and by this Act are appointed to be recovered; but in case such goods, wares and merchandize or other things shall upon such weighing, measuring or gauging appear to be of no greater weight or quantity than the master or owner declared the same to be before the weighing, measuring or gauging thereof, then and in such case such collector shall pay the costs and charges of such weighing, measuring or gauging, and shall also pay to the master or person having charge of such boat, barge or other vessel, or to the owner of such goods, wares and merchandize, a sum not less than *One Shilling*, nor more than *Two Shillings and Sixpence*, for every hour that such boat, barge or other vessel shall be detained by occasion of such weighing, measuring or gauging, and so in proportion for any greater or less time than an hour; and in default of immediate payment thereof, the same shall be levied by distress and sale of the goods and chattels of such collector, or of any lessee of such rates or tolls by whom such collector may have been employed, by warrant under the hand and seal of any Two Justices of the Peace for the county, liberty or place where such collector shall reside, rendering the overplus to the owner thereof after such distress and sale made.

92. Lock-keepers to attend at locks.

And be it Enacted, That any lock or bridge keeper appointed under the provisions of this Act to have the charge of opening or shutting any lock or bridge on any navigation to be improved or made under the provisions of this Act shall constantly attend to same, and shall at all reasonable times open same for the passage of trading or other vessels, the tolls and other rates required under this Act for such vessels being paid, and the bye-laws, rules and regulations which shall be made by the said Commissioners being complied with; and each such lock or bridge keeper wilfully neglecting the duties of his office in any of the matters aforesaid, shall be liable to a penalty of not more than *Five Pounds* for each offence.

Penalty.

93. A list of the rates, tolls, &c. to be affixed in conspicuous places.

And be it Enacted, That the said Commissioners shall cause an account or list, printed or painted in large legible characters, of the several rates and tolls which the said Commissioners shall from time to time direct and appoint to be taken, and which shall be payable by virtue of this Act, to be affixed on boards in some conspicuous place, and

and continued and renewed as often as the same shall be obliterated or defaced, to or upon every toll-house or building at which any such rates or tolls shall be collected or received.

94. Enforcing the payment of rates and tolls.

And be it Enacted, That it shall and may be lawful for the said Commissioners to appoint sufficient collectors and agents for the purpose of receiving the tolls and rates payable under this Act, and in case of refusal or neglect on demand to pay such rates or tolls as have accrued due unto the respective persons appointed to receive the same as aforesaid, the said Commissioners may sue for and recover the same by an action of debt in any of Her Majesty's Courts of Record or by civil bill, or the person to whom such rates or tolls ought to have been paid may and he is hereby empowered to seize the goods, articles or other things for or in respect whereof any such rates or tolls ought to be or ought to have been paid, or any part thereof, and the vessel laden therewith, or any other goods, articles or things belonging to the person liable to pay such rates or tolls, and detain the same until such payment shall be made, together with all reasonable charges for such seizure and detention; and if such goods, articles and things shall not be redeemed within *Twenty-one* Days after the taking thereof, the same shall be appraised and sold as the law directs in cases of distress for rent, and such rates, tolls and charges satisfied thereout.

95. Leasing the rates and tolls.

And be it Enacted, That it shall be lawful for the said Commissioners (if they shall think fit), by public bidding from time to time to let all or any of the tolls or rates payable under the provisions of this Act, for terms not exceeding *Three* Years, on such conditions and with such security for the payment of the rent reserved on such lease as the said Commissioners, with the consent and approval of the said Commissioners of Her Majesty's Treasury, shall deem expedient; and every such lease shall be valid; and the respective lessees thereof, and also such persons as such lessees shall appoint to collect and receive the rates or tolls so let, shall have the same powers and authorities for collecting and recovering the same as are hereinbefore by this Act given to the said Commissioners and the person appointed by them to collect such tolls and rates.

96. Power of re-entry in case of non-performance of the conditions of the lease.

And be it Enacted, That in case any of the rates or tolls by this Act authorized to be taken shall be demised or let, and the lessee thereof shall refuse or neglect to perform the terms and conditions on which the same shall be so demised or let, or any of them, or in case all or any part of any rent agreed to be paid by any such lessee shall be in arrear or unpaid for the space of *Twenty-one* Days next after any of the days on which the same ought to be paid pursuant to the lease or demise of such rates or tolls, or in case any collector of

the said rates or tolls appointed by the said Commissioners as aforesaid shall be discharged from his office or shall die, abscond or absent himself, and any such collector who shall be so discharged, or the wife, widow or any of the children or family, or any representative of any such collector, or any other person being in possession thereof, shall refuse to deliver up, or shall not deliver up possession of any toll-house, office or other building, with the appurtenances thereto respectively belonging, to be used for the purposes of this Act, within the space of *Seven* Days next after a demand thereof in writing, signed by the said Commissioners, shall be given to him or affixed to such toll-house, office or building, or in case any such lease or demise shall in any manner become void or voidable, then and in any of the said cases it shall be lawful for any Two or more Justices of the Peace, acting within their jurisdiction, upon any application made by the said Commissioners, by warrants under the hands and seals of the said Justices, to order any constable or other peace officer, with such assistance as shall be necessary, to enter upon and take possession of every or any such toll-house, office or other building, with the appurtenances, and to remove and put such lessee, collector or other person as shall be found therein, together with his goods, from and out of the same and the possession thereof, and from the collection of such rates or tolls, and to put the said Commissioners, their agent or their new lessee or collector into the possession thereof; and thereupon it shall be lawful for the said Commissioners to vacate and determine the lease and demise or agreement (if any) which was previously subsisting, and the same shall accordingly be utterly void to all intents and purposes (save as to the contracts and agreements unperformed by the said lessees); and it shall be lawful for the said Commissioners in every such case, either during such proceedings, or on the termination thereof, again to demise or let the said tolls or rates in such and the same manner as if no former demise or agreement had been made with respect thereto.

97. How the income derived from navigation shall be applied.

And be it Enacted, That the income which the said Commissioners shall receive for or in respect of any tolls or other rates to be imposed and levied under this Act by reason of the improvement to be effected in any such river as aforesaid, shall be applied in the first instance in payment of the expenses attending or incident to the maintenance and repairs of the works which shall be constructed solely for the improvement of the navigation of such river, and the expenses of collecting such tolls and rates as aforesaid, and all other expenses attending the conservancy and due preservation of such river; and the surplus, after defraying such expenses, shall be applied in manner hereinafter mentioned, in repayment of the sum, which, under the award of the said Commissioners, shall or may be paid by the person who shall have given such guarantee or security as aforesaid for the payment of the

the costs of improving the navigation of such river, together with interest on such sum, as hereinafter mentioned: Provided always, That no sum out of the said tolls or other rates shall, under any circumstances, be repaid to any Grand Jury.

98. Tolls to be reduced to an amount sufficient to defray maintenance of works.

And be it Enacted, That when and so soon as, by means of such surplus income, such sum as shall be so payable under the said award, and the interest in respect thereof, shall be fully paid and satisfied, then the tolls and rates on the said river shall, with the consent of the Commissioners of Her Majesty's Treasury, be reduced to such an amount as will defray the expenses hereinbefore directed to be defrayed out of such tolls and rates.

99. Commissioners may borrow money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time, as occasion shall require, to borrow and take up at interest, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them in the execution of any works for the drainage or improvement of any land or the navigation of any river, or the formation of any reservoir, under or by virtue of this Act, and the repayment of such sum or sums of money, with interest, at a rate not exceeding *Five Pounds* per centum per annum, shall be secured to the party lending the same upon the monies accruing to the said Commissioners under or by virtue of the award to be made by the said Commissioners, as hereinafter mentioned: Provided always, That when the Commissioners shall require to raise any sum of money by way of loan for the purposes aforesaid, they shall, by notice to be inserted in the Dublin Gazette, Once in each week for *Three* successive Weeks, and otherwise, as to them shall seem proper, publish and state the amount of the sum then required, and for which certificates are to be issued as hereinafter mentioned.

100. Commissioners to grant certificates to lenders, for principal and interest.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time to grant a security by Deed, in the form of a certificate under the hands and seals of said Commissioners, to every person who shall so advance any sum of money as aforesaid, setting forth the sum for which the several certificates collectively are to be issued, the amount of the sum for which each such certificate is issued, the date of such advance, and the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment, or by instalments, and a general description of the land or river for the drainage or improvement in the reservoir for the construction of which such sum shall have been borrowed, and that every such certificate shall be duly stamped as a mortgage, and made in the following words, or as near thereto as the circumstances of the case will admit:

Form of Certificate.

"By virtue of an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA [here insert the title of this Act] we, the undersigned, being the Commissioners for the execution of an Act passed in the fourth year of the reign of Her Majesty Queen VICTORIA [here set forth the title of this Act], in consideration of the sum of pounds of lawful money of Great Britain, to us lent and paid, by , do hereby certify, that the monies to become payable to us, under our award, for the drainage, improvement or construction of [here describe the land, river or reservoir], are hereby charged with the repayment of said sum of pounds, being the whole (or part, as the case may be) of the sum of pounds, required to be borrowed for the purpose aforesaid [here insert the period when the money is repayable in one payment, or by instalments, as the case may be], together with interest thereon [or, if the money be payable by instalments, with interest on such part of the said principal money as shall remain unpaid from time to time] at and after the rate of pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof, we have hereunto set our hands and seals the day of ."

And the monies mentioned in each such certificate, with the interest thereon, shall be re-payable and paid by the said Commissioners out of the monies which shall come to their hands under their award as aforesaid, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference, by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Commissioners, or any of them, who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

101. Loans may be transferred.

And be it Enacted, That every person who shall be entitled to the money secured by any such certificate, may transfer his right and interest to the said principal sum and interest money thereby secured to any person, by writing, duly stamped, wherein the consideration shall be

be truly stated; and every such transfer may be in the following words, or words to the like effect:

"I, [or, We] A. B., of , in consideration of the sum of to me this day paid by C. D., of , do hereby transfer a certain certificate of charge made by the Commissioners for the execution of an Act passed in the year of Her Majesty Queen VICTORIA, intituled [here set forth the Title of this Act], to bearing date the day of for securing the sum of and interest, and all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said C. D., his, her or their executors, administrators, successors or assigns (as the case may be). Given under my hand and seal this day of ."

Which transfer shall be produced and certified to the secretary for the time being of the said Commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such secretary shall make an entry amongst the records of the said Commissioners of the particulars of every such transfer, and sign the same.

102. Power to borrow money at a lower rate of interest.

Provided always, and be it Enacted, That in case the said Commissioners can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for the said Commissioners to borrow and take up, and they shall (if so required by the parties interested), borrow and take up from time to time in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the re-payment of such new loan shall be secured in like manner upon the monies accruing to the said Commissioners under their award as aforesaid; and the said Commissioners shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

103. Money may be borrowed for the purposes of this Act, from Public Loan Commissioners, or from Commissioners of Public Works.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed for carrying into execution an Act passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," or for the Commissioners appointed and acting under an Act of Parliament passed in the fifty-seventh year of the reign of his late Majesty King GEORGE the Third, intituled, "An

Act to authorize the Issue of Exchequer Bills, and the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works or Fisheries in the United Kingdom, and the Employment of the Poor in Great Britain," or any Act or Acts for amending the same respectively; and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend and advance any sum of money which may be necessary for the purposes of this Act upon the credit of the award to be made as hereinafter mentioned, provided that no advance of money shall be made by either of the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by either of such Commissioners shall be repaid from and out of the monies accruing to the Commissioners for the execution of this Act under the said award, by and from the charges aforesaid, within such period, either by one payment, or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of the Treasury shall direct: Provided always, That all such monies as shall be lent and advanced shall be repaid within *Twenty-five* Years from the date of such advance, and that the rate of interest payable thereon, or on so much thereof as shall be from time to time outstanding, shall not be less than *Ten Shillings* per centum per annum above the rate of interest on the Exchequer Bills which may be issued for the purpose of providing for such loan or advance, as the said Commissioners of Her Majesty's Treasury shall direct.

104. Accounts to be kept.

And be it Enacted, That the Commissioners for the execution of this Act shall cause books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid and expended about any drainage or improvement or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed and paid, and shall keep the accounts with reference to the improvement of any river or navigation separate and distinct from the accounts with reference to drainage; which books shall, at all reasonable times, on giving *Three* clear Days' notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or improvement to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

105. Commissioners to account yearly.

And be it Enacted, That Once at least in every year the said Commissioners shall prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works

for

for the drainage or improvement of any such land or river as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the said Commissioners at their office in Dublin, and a copy of such account, signed by said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection, at all reasonable times, on payment of a fee of *One Shilling*, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Commissioners and Clerk of the Peace shall furnish copies of or extracts from any such account or statement, to any persons requiring same, upon payment of the costs of making such copies or extracts.

106. Commissioners to make award upon completion of any works under this Act.

And be it Enacted, That as soon as conveniently may be after any works for the drainage or improvement of any land or the navigation of any river under this Act, or any other work by this Act authorized to be executed, shall have been completed, the said Commissioners shall draw up, or cause to be drawn up, an award or instrument in writing, which shall describe the land or river drained or improved as aforesaid, and the work or works which shall have been so completed; and such award shall also specify the quantity belonging to every proprietor of such land so drained or improved as aforesaid, and the original value and the increase in the value of the land so drained or improved; and such award shall also specify the amount of the sums which shall have been expended in and about the works which shall have been so executed for drainage or improvement by drainage, and all expenses incident thereto (including the interest of all borrowed monies), and the proportions of such sums with which the land drained or improved by drainage shall be charged towards payment of the total amount of the costs, charges and expenses of such drainage, or incidental thereto, and whether the same shall be re-paid in one sum or by instalments, and if by instalments then said award shall also specify the several instalments and the manner by and in which such proportions shall be paid, regard being had to the degree of benefit conferred as aforesaid, and the circumstances of each particular case; and in the case where any water-power shall be improved by the making of embankments or reservoirs, or any works so completed, under the provisions hereinbefore contained or executed with the consent of the proprietors of mills as aforesaid, the said award shall also specify the lands liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which such lands shall be respectively charged, and whether same shall be repaid in one sum or by instalments as aforesaid; and in the case of

the improvement of the navigation of any river, the said award shall specify the amount of the costs, charges and expenses to be borne in respect thereof by the district in which such river or any part thereof is situate, or the Grand Jury of the county in which such district shall be situate, or by the person who shall have guaranteed or secured the payment of the costs of such improvement; and the said award shall also specify whether such amount shall be re-paid in one sum or by instalments as aforesaid; and the said award shall also specify the baronies, half baronies or townlands in the district benefited by the improvement of such river, and the proportions in which such baronies, half baronies or townlands are thereby benefited; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the land so improved as aforesaid, and the proprietors of such lands in respect thereof respectively for the time being shall in future be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of each award.

107. Draft award to be deposited, and notice given for persons objecting to send in their objections.

And be it Enacted, That the said Commissioners shall, within *One calendar Month* next after the making of their said award, cause a draft thereof to be printed and sold at a price not exceeding *Two Shillings and Sixpence* for each printed copy thereof, and shall within such *calendar month* cause such draft, or a copy thereof, to be deposited with the Clerk of the Peace for every county wherein the land or river or any part thereof, which shall have been drained or improved, may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same upon receiving a fee of *One Guinea* for so doing; and when such draft of the award has been so deposited, the said Commissioners shall cause notice thereof to be posted in the usual places for posting Grand Jury notices in every barony, and county of a city and county of a town in which such district or any part thereof shall be situate, and shall also cause a like notice to be inserted Once in each week for *Three* successive weeks in the Dublin Gazette, and in some one or more newspapers usually circulated in such district or the vicinity thereof; and the Commissioners shall by such notice require all Grand Juries and persons who may desire to lodge objections to the said award, to lodge

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the same at such place within such district, and before such time as shall be specified in the said notice; and the Commissioners shall also in the said notice state that they will proceed to hear any objections which may be lodged, and to settle the award at such time and place in or near such district as shall be specified in the said notice, such time not to be sooner than Two calendar Months from the first publication of such notice.

108. Commissioners to hear and decide objections (if any) to award.

And be it Enacted, That the said Commissioners shall attend at such time and place as they shall so appoint, and shall examine into the matter of any objection which shall be so lodged to the award, and shall hear all such proper evidence as may be offered to them in respect thereof, and shall make such alterations (if any) in the said award as they shall think fit, and may adjourn such attendance from time to time, and shall settle and sign such award.

109. Award to be deposited.

And be it Enacted, That every award, when finally settled by the said Commissioners, with a proper map or plan annexed thereto, describing the district and the lands therein to which such award shall relate, shall be enrolled in the Rolls Office of Her Majesty's Court of Chancery in Ireland within *Three* Months after same shall have been finally settled, and a copy thereof shall be deposited with the Clerk of the Peace of each county in which such district shall be situate, who is hereby authorized and required to receive and deposit the same amongst the records of the county; and such award, when so finally settled and enrolled, shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of Her Majesty's Rolls Office shall be evidence that it was duly made, and that all the requisitions of this Act in relation thereto were complied with; and the said Commissioners shall, within *One Month* after the said award shall be finally settled, cause such award to be printed and kept for sale at a price not exceeding *Two Shillings and Sixpence* for each printed copy thereof.

110. Apportioned expenses to be charged on lands.

And be it Enacted, That the respective sums of money which, by the award of the said Commissioners, shall be specified as the proportions or contributions which the land drained or improved by drainage, by any works under this Act shall be charged with, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money, at the rate not exceeding *Five Pounds* per centum per annum from the date of such award, shall be charged on the land so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such lands; provided, nevertheless, that any rent

payable thereout or any incumbrance thereon previously to the date of said award shall have priority to such charges, to the extent of the value of such land before the improvements were effected, but no farther; and the same respective sums of money, with such interest for the same as aforesaid, shall also be charged upon all other land of the same proprietor, standing settled with the land drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument, or the same set of instruments, but subject as to such other land to the full amount of all incumbrances affecting the same prior to the date of said award.

111. In case of non-payment of money so charged, Commissioners may enter into receipt of the rents, and mortgage the land.

And be it Enacted, That if any such sum of money as last mentioned, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of *Three* calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the said Commissioners, or any person authorized by them, to enter upon the land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, but subject nevertheless to such rent and first incumbrance (if any) as aforesaid, and the rents and profits of such land to receive and take until, thereby or otherwise, the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon the application by petition of the said Commissioners, to appoint a receiver of the rents, profits and issues of such land, which receiver shall have full power to receive the same rents, profits and issues, and apply the same, after deduction of the necessary expenses of the application to the said Court, and of the rent issuing out of such lands and premises (if any) and without prejudice to such prior incumbrances, or any remedy for the recovery of same respectively, in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Commissioners, if they shall so think fit, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such land, or a competent part thereof; and every such mortgage, and every receipt given for the consideration money, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Commissioners is hereby authorized.

112. As to expenses of improvement of river when payable by Grand Jury.

And be it Enacted, That where the amount of the costs, charges and expenses payable under the said award for the improvement of any river under or by virtue of the provisions of this Act shall be payable by the Grand Jury of the county in which such river or any part

part thereof is situate, the Secretary of the said Commissioners shall certify to the Secretary of such Grand Jury the amount of such costs, charges and expenses, and the instalments and manner by and in which the same is payable under the award of the said Commissioners; and such Grand Jury is hereby required to make presentment of the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, as stated in such certificate, together with interest thereon respectively, at a rate not exceeding *Five Pounds* per centum per annum from the date of such award, to be raised off the baronies, half baronies or townlands named in said award, and situate in such county, and in the district or part thereof benefited by the improvement of such river, according to the proportions specified in the award of the said Commissioners; and in default of such presentment, the Court at such Assizes shall order such amount or instalments, with interest as aforesaid, to be raised off such county, and such order shall have the force of a presentment; and the Treasurer of such county shall insert such amount or instalments, with the interest thereon, as same shall be from time to time payable, in his warrant or warrants, and same shall be applotted, raised and levied as if same had been duly presented; and when and so soon as such amount or instalments as aforesaid, with the interest thereon, shall be raised and received by the Treasurer of the county, such Treasurer shall immediately pay over the same to the said Commissioners.

113. Where payable by an individual.

And be it Enacted, That where the amount of the costs, charges and expenses payable under the said award for the improvement of the navigation of any such river as aforesaid shall be payable by any person who shall have guaranteed or secured the payment of such costs, charges and expenses in manner hereinbefore mentioned, then such person shall pay to the said Commissioners the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, together with interest thereon respectively, at a rate not exceeding *Five Pounds* per centum per annum from the date of such award, at the time and in the manner expressed and required by the said award; and if default shall be made in payment thereof respectively, or of any part thereof, the said Commissioners shall enforce such payment, by action or otherwise, as such Commissioners shall think proper, against such person.

114. Application of surplus income of tolls.

And be it Enacted, That the said Commissioners shall apply the surplus income which shall arise from or in respect of any tolls or rates to be imposed and levied as hereinbefore mentioned upon or in respect of any river the navigation of which shall have been improved under this Act, after defraying all such expenses as hereinbefore specified, in or towards the repayment of the sum which shall have been paid by

any person respectively under the provisions lastly hereinbefore contained, together with interest thereon at the rate of *Five Pounds* per centum per annum; and after such sum or sums shall have been repaid, together with all interest in respect thereof, then the tolls and rates shall be reduced in manner hereinbefore mentioned.

115. Proprietors of less than fee-simple may charge the expenses on the lands.

And be it Enacted, That any proprietor entitled to less than an immediate estate of fee-simple, may, with the consent of the said Commissioners, charge (according to the like priority, and subject to the like incumbrances as aforesaid), the land to which he shall be entitled, and which shall have been drained or improved by drainage under the provisions of this Act, with the proportion of the expenses to be defrayed by him under the award of such Commissioners, or any part thereof, with lawful interest thereon, but so nevertheless that the charge upon such lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least *One-twentieth* part of the whole sum of the instalments charged thereon by the award of the Commissioners, and the interest in respect thereof.

116. Power of leasing lands improved.

And be it Enacted, That it shall be lawful for any tenant in tail or for life, or for any other partial interest, at any time after a copy of any such said award shall have been deposited with the Clerk of the Peace as aforesaid, to lease the land drained or improved by drainage, and described in said award, which shall belong to him, for any term not exceeding *Thirty-one* Years, at such yearly rent, and subject to such covenants and agreements, as the said Commissioners shall by indorsement upon such lease signify their approval of.

117. Commissioners to determine amount of increased rent to be paid for land improved.

And be it Enacted, That in case any land which shall be drained or improved by drainage under this Act shall at the time of making the said award be in the occupation of a person who shall not be a proprietor thereof, within the meaning of the provisions in that behalf hereinbefore contained, or in case any land so drained or improved shall be held under any person who shall within the meaning of the aforesaid provisions be a proprietor thereof by any other person or persons under any lease, agreement or contract for a lease, or shall be held under any lease, agreement or contract for a lease granted or made by any person or persons having any immediate or derivative title from or under such proprietor, then and in such case the said Commissioners shall determine the amount of increased rent or rents which such occupant or other person or persons having such immediate or derivative title from or under such proprietor as aforesaid shall pay in consequence of any improvement of such land, regard being had to the duration, extent and value of the interest of such occupant or person or persons in such land, and the necessary expenses to be incurred in the cultivation thereof, and the peculiar circumstances of each case,

and

and regard also being had to the rates and taxes which will be payable by the proprietor under this Act, for the ordinary maintenance and support of the works which shall have been executed, but without taking into account any probable expenses which may be payable by the proprietor for the re-construction or re-instatement of such works, or any reparation of any extraordinary nature; and the landlord or respective landlords of such occupant, or other person or persons, shall have the same remedies for the recovery of such increased rent or rents as he or they was or were entitled to for the rent or rents originally reserved; and the decision of the said Commissioners shall be signified by indorsement on the lease or instrument or leases or instruments of demise, under the hands and seals of the said Commissioners, or any Two of them.

118. Tenants paying monies on account of landlord, to deduct them from rent.

And be it Enacted, That every tenant or occupier of any land who shall pay any sum of money for the land in his occupation on account of his landlord, under any of the provisions hereinbefore contained, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the landlord of such land is hereby required to allow such deduction and payment; and every such tenant or occupier paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any tenant or occupier to deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

119. In certain cases the Commissioners to have the care of the works.

And be it Enacted, That in every case where the navigation of any river shall be improved under this Act, and in every case where any reservoir shall be made, the said Commissioners shall have and retain the continued care and conservancy of the several works which shall be executed under the provisions of this Act.

120. Mode of appointing trustees.

And be it Enacted, That in every case where no navigation shall have been improved or formed in connexion with drainage, or where no reservoir shall have been constructed under the provisions of this Act in any such district as aforesaid, the said Commissioners shall and they are hereby required to call a meeting of the proprietors of the land included in such district, within *Three* calendar Months at least after the date and execution of the said award, by notice to be inserted Once in each week for *Three* successive Weeks in some one or more newspaper or newspapers usually circulated in the vicinity of such land, and to be posted in the usual places for posting Grand Jury notices in every barony, county of a city or county of a town in which any part of such district shall be situate, in order to make choice of Trustees for

the further execution of this Act; and such Trustees so to be chosen shall not be less than *Three* nor more than *Nine*, and they shall continue in office for the term of *Three* Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of *Three* Years, and also at the expiration of every succeeding term of *Three* Years, for ever thereafter, new Trustees shall from time to time be in like manner chosen by the proprietors of the lands included in such district, at a meeting for that purpose to be holden; and the said Trustees that shall afterwards be elected shall be chosen by the proprietors of the greater portion of such lands in value (such value to be calculated according to the proportions of the annual rate or tax with which they shall be respectively chargeable by virtue of this Act), or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and such Trustees, or the Majority of them for the time being, are hereby fully authorized, with the consent and approbation of said Commissioners, to make, alter, support and maintain, or cause to be made, supported, altered and maintained, all such cuts, drains, banks, sluices, tunnels, bridges, engines, buildings and other works, in and about the land so drained as aforesaid, as they shall think necessary for draining and preserving the same; and all the powers and provisions of this Act, relating to the Commissioners, which apply to or can be exercised by the said Trustees, shall be and the same are hereby extended to the said Trustees, as if the said Trustees as well as the said Commissioners had been expressly mentioned in such powers and provisions respectively; and in case any Trustee shall die or refuse or become incapable to act in the execution of this Act, before the expiration of the term of *Three* Years, for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of *Three* Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of *Three* Years, and that every such Trustee being so chosen shall, during the remainder of the existing term of *Three* Years, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of *Three* Years, and after the death, refusal or incapacity of any Trustee, and until new Trustees or new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly-elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution

of

of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

121. Trustees, in all matters relating to the preservation and maintenance of the works executed under this Act, shall be subject to the control of the Commissioners.

And be it Enacted, That the Trustees who shall be elected as aforesaid shall be subject to the control and direction of the said Commissioners in all matters relating to accounts, and to the preservation and maintenance of the works which shall be executed under the provisions of this Act; and it shall and may be lawful for the said Commissioners, at such stated periods as to them shall seem expedient, to make or order an inspection of said works, and to direct that such works, matters and things as the said Commissioners shall think necessary for the preservation thereof, shall be made, done and executed by the said Trustees; and it shall and may be lawful for the said Commissioners from time to time, and as often as any Trustees who shall be elected as aforesaid shall refuse or neglect to perform the several duties hereby imposed upon them with respect to said works, to enter into and retain the possession of the said land which shall have been vested in the said Trustees, and to do all such acts and exercise all such powers and authorities as they the said Commissioners would have been entitled to do and exercise if the said Trustees had not been appointed; and all powers and authorities hereinbefore given to such Trustees shall thenceforth cease and determine until the purposes for which the said Commissioners shall have entered into possession shall have been effected: Provided always, That if it shall seem expedient to the said Commissioners, new Trustees may be elected in manner aforesaid.

122. Commissioners or Trustees to hold annual meetings, and fix the amount to be raised for maintenance and repairs for the ensuing year.

AND for the purpose of effectually sustaining and upholding, in all cases in which works shall be executed under this Act, all and singular the drains, watercourses, banks, sluices, floodgates, tunnels, watergates, buildings, bridges, steam or other engines and other works, and of supplying in such cases all things that may be required to work the same, and for the payment of all necessary expenses of maintenance of works of drainage, reservoirs and water-power, and all other expenses incident thereto; BE it Enacted, That it shall be lawful for the said Commissioners (or in cases where Trustees are appointed, for the said Trustees) and they are hereby respectively authorized and required, once in every year, to meet in some convenient place, and then to determine and fix, subject in the case of Trustees to the approval of the said Commissioners, the sum of money that shall be contributed and raised during the then ensuing year for the purposes of effecting, sustaining, supporting and upholding all and singular the aforesaid works, and for other the purposes of this Act, and (having regard to and in the proportions fixed for such purpose by the said Commissioners in their award) to assess, rate and tax the proprietors of the

said land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said Commissioners and Trustees respectively shall have the same powers, rights and privileges by entry or mortgage to enforce the payment of all such last-mentioned sums of money, costs, charges and assessments as are hereinbefore given to the said Commissioners for the enforcing payment of the sums charged under their award as aforesaid; and at every such meeting held by such Trustees, all questions shall be determined by the Majority of the Trustees who shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act without the concurrence of the other or others of them.

123. Commissioners to determine differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested or claiming to be interested in any land or river to be drained or improved in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such land or river, or touching any other matter relating thereto, it shall be lawful for the said Commissioners, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned.

124. Commissioners may have an assessor.

And be it Enacted, That upon any inquiry or proceeding to be had before said Commissioners, in pursuance of the provisions of this Act, it shall be lawful for the said Commissioners, should they so think fit, to retain and appoint as their assessor any one of Her Majesty's Counsel at law in Ireland to act with and assist the said Commissioners in adjudicating upon the matter of such inquiry or proceeding as aforesaid; and it shall be lawful for the said Commissioners to defray the expenses of retaining or appointing such assessor out of the funds at their disposal under this Act.

125. Persons summoned by Commissioners, and refusing to give evidence, to be punished.

And be it Enacted, That it shall be lawful for the said Commissioners, upon any inquiry or proceeding to be had before them under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Commissioners are hereby empowered to administer) any person whomsoever; and if any person having been so summoned before the said Commissioners to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained

tained by the said Commissioners, to defray the charges of his attendance, shall not appear before the said Commissioners pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the said Commissioners, upon proof thereof upon oath, shall and they are hereby authorized, by warrant under their hands and seals, to direct any person whomsoever to cause any sum of money, not exceeding *Five Pounds*, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any) upon demand to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence or otherwise forswear themselves in any such examination, may be prosecuted for same, and upon conviction thereof shall be liable to the same pains and penalties as persons guilty of wilful and corrupt Perjury are now liable to by law.

126. Power to assess costs.

And be it Enacted, That in case the said Commissioners shall, upon the hearing and determination of any claim or objection to be delivered to or made before them in pursuance of this Act, so think proper, it shall be lawful for them to award and order such costs and charges as they shall think reasonable to be paid to the party, in whose favour any such determination shall have been made, by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same on demand, then and in every such case it shall be lawful for the said Commissioners and they are hereby authorized and required, by warrant under their hands and seals, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any) on demand to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Commissioners shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action; and in case such person shall upon the trial of such action establish the right against which the Commissioners shall have determined, such person shall not be liable to the payment of any such costs as last aforesaid, but shall be entitled to his costs of such action.

125. Allowing parties to try their rights by an issue at law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any land to be included in any drainage or improvement to be effected in pursuance of this Act shall be dissatisfied with any determination of the said Commissioners concerning any right or interest in, over or upon such land or any part thereof, made in the execution of this Act, or any injury or damage sustained by him, by reason of any thing done by the said Commissioners or by their authority, or in the prosecution of any of the said works, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue against the person in whose favour any such determination has been made, within *Three* calendar Months after the determination of the said Commissioners shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within *Three* Months after such injury or damage shall have been sustained; and thereupon the person so dissatisfied shall proceed to a trial at law at the next Assizes immediately following, to be held for the county where the land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined according to the event of such trial: Provided always, That it shall and may be lawful for the Assistant Barrister of the county in which such parties or either of them reside, with the assent of such parties, to be signified by any agreement in writing under their hands, to try and finally determine such matters in difference between them on a civil bill to be preferred before him by either of said parties: Provided also, That if no such action at law be commenced, or no civil bill be brought, within *Three* calendar Months as aforesaid, or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said Commissioners shall be binding and conclusive to all intents and purposes whatsoever: Provided also, That if any of the parties in any such action to be brought as aforesaid shall die pending the same, such

If no action, the Commissioners' determination to be final.

Death of parties not to stop proceedings at law.

such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened: Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the said Commissioners in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in notwithstanding such differences or suits.

Suits not to delay the drainage.

128. And be it Enacted, That if any of the parties interested in the said proposed works shall die before the same shall be completed, the powers and authorities vested in the said Commissionors shall not be thereby determined or suspended, but the said Commissioners shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

Death of parties not to suspend the execution of this Act.

129. Provided always, and be it Enacted, That if any person, in whose favour a determination as aforesaid shall have been made, and against whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same within the time so limited as aforesaid against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein, in the same manner as if such person had been actually living; and the rights of all parties shall be equally bound and concluded by the event of such action.

How actions may be brought after the death of parties.

130. And be it Enacted, That the said Commissioners shall cause detailed accounts in writing of their proceedings under this Act, and of the several sums received by them as such Commissioners, and of the sums expended by them, and the mode of such expenditure, and of the several works made or in progress under this Act, to be made up to the *Thirty-first day of December* in each year; and such accounts shall be laid before both Houses of Parliament within *Thirty* Days thereafter, if Parliament be then sitting, or within *Thirty* Days after the First meeting of Parliament subsequent to the *Thirty-first day of December*; and the said Commissioners shall, as often as they shall be required so to do by the Commissioners of Her Majesty's Treasury, transmit to the said Commissioners of the Treasury like accounts made up to such period as the said Commissioners of the Treasury shall direct.

Accounts to be laid before Parliament.

131. Commissioners to make bye-laws.

And be it Enacted, That it shall and may be lawful for the said Commissioners and they are hereby authorized and empowered from time to time to make such bye-laws, rules, orders and regulations, not being contrary to any law or statute in force in Ireland, as to them shall seem meet and proper, according to the circumstances of every case, for better carrying into effect the purposes of this Act, or in any manner relating thereto, and from time to time to alter or repeal all or any of such bye-laws, rules, orders or regulations, and to make others, and to impose such fines and penalties, not exceeding the sum of *Five Pounds*, upon all persons offending against any of such bye-laws, rules, orders or regulations, as to the said Commissioners shall seem reasonable; and all such bye-laws, rules, orders and regulations shall be reduced into writing, and signed by the said Commissioners, or any Two or more of them; and a copy thereof, signed by the said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district or river to which such bye-laws shall relate shall be situate, and the same shall be kept with the records of the county; and a printed or painted copy of such of the said bye-laws, rules, orders or regulations, as shall subject any person, not being an officer or servant of the said Commissioners, to any fine or penalty, shall be exhibited on boards at each toll-house, lock-house, and in every office used under such Commissioners for the purposes of this Act, and in such places as to the said Commissioners shall seem fit, and shall from time to time be renewed as often as the same or any part thereof shall be obliterated or destroyed; and such bye-laws, rules and orders shall be binding upon and shall be observed by all persons whomsoever; provided that all such bye-laws, rules, orders and regulations be approved of and confirmed by the Lord Lieutenant or other Chief Governor or Governors of Ireland in Council, by writing, under his or their hands.

132. Copy of bye-laws to be evidence.

Provided always, and be it Enacted, That in all cases of prosecution for any offence or offences against any of the bye-laws, rules, orders and regulations of the said Commissioners, the production of a book or document purporting to contain the bye-laws, rules, orders or regulations of the said Commissioners, and authenticated by the signatures of any Two or more of the said Commissioners, shall be evidence of the existence of such bye-laws, rules, orders or regulations: Provided always, That in every such prosecution it shall be proved that such printed or painted copy as aforesaid of such bye-laws, rules, orders or regulations was duly exhibited in manner hereinbefore directed.

133. Penalty for opening cloughs and letting off the water.

And be it Enacted, That if any person other than such persons as are authorized by virtue of this Act shall at any time draw or open any of the cloughs, sluices or canals which shall be made under the authority of this Act, or shall wilfully or maliciously let off the water of any of the

the said reservoirs, rivers, canals or drains, every such person shall for every such offence, on being thereof convicted, on the oath of one or more credible witness or witnesses, before one of Her Majesty's Justices of the Peace acting in and for the county where the offence shall be committed, forfeit and pay any sum of money not exceeding the sum of *Twenty Pounds*, to be levied by distress and sale of the goods and chattels of such offender, by warrant under the hand and seal of the Justice before whom such conviction shall be had, which sum so forfeited shall be employed in and towards carrying on the works to be done and executed, maintained and supported, in pursuance of this Act; and for want of sufficient distress, such offender shall, by such Justice, be committed to prison for any time not exceeding *Six* calendar Months, unless he shall pay the said penalty and costs of conviction.

134. Persons destroying works guilty of Felony.

And be it Enacted, That all and every person or persons whomsoever, who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of *Seven* Years, or to be imprisoned for any term not exceeding *Two* Years.

135. Penalty on persons depositing gravel, &c. so as to obstruct the navigation or free passage of water in the rivers, &c. improved under this Act.

And be it Enacted, That if any person shall throw or deposit any ballast, gravel or other matter or thing, so as to interrupt or obstruct the free passage of water through or the navigation of any of the rivers, streams, watercourses, or any of the cuts, sluices or canals which shall have been improved by the said Commissioners under this Act, or shall, without the consent of the said Commissioners, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks, locks or trackways of any of the rivers, drains, canals or side-cuts aforesaid, or if any person shall maliciously open any lock, sluice, dam, gate or watercourse belonging to the said navigation or drainage, or shall so leave any of the same open after any boat has passed, or otherwise maliciously mis-spend or waste the water of the said navigation, or shall raise any wall, building or other obstruction in said drains, canals, rivers or streams, without the consent in writing of the Commissioners, such person being convicted of any of the offences aforesaid, before any Justice or Justices of the Peace of the county where such offence shall be committed, or of any adjoining county, by the oath of one or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding *Ten Pounds*, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices; and all such walls, buildings or other obstructions may be forthwith pulled down and removed by the said Commissioners, or any person or persons duly authorized by them, and the materials of such walls, buildings or

obstructions may be sold by order of the said Commissioners to defray the costs of their removal.

136. Penalty on persons assaulting Commissioners and others engaged on the works.

And be it Enacted, That if any person or persons shall wilfully prevent or assault any of the Commissioners for the execution of this Act, or any engineer or other officer, servant or workman acting in aid or under the orders of any such Commissioners in the execution of any of the powers given by this Act, or shall wilfully destroy or injure any of the instruments, tools or implements or materials kept or used by the said Commissioners or any of them, or by any person or persons employed by them or any of them, for or in the execution, maintenance or repairs of any of the works under this Act, any person so offending shall forfeit and pay for every such offence, upon conviction thereof, by the oaths of one or more credible witness or witnesses, before any Justice of the Peace, such sum, not exceeding *Five Pounds*, as such Justice shall think fit.

137. Proceedings by summons for the recovery of penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons, without information in writing, shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

138. Form of conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in words to the same effect:

to wit. } "BE it Remembered, That on the day of A. B. is convicted before Her Majesty's Justices or Justice of the Peace for the county of by virtue of the Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA, intituled [here insert the title of this Act, specify the offence and the time and place when and where the same was committed, as the case shall be]; and we do adjudge that the said A. B. shall for the said offence

Given under our hands and seals [or, my hand and seal], the day and year aforesaid."

139. Recovery and application of penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or incurred under the provisions or directions thereof, and all sums payable for compensation or damage, the manner

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of levying and recovering whereof is not hereinbefore otherwise particularly directed, may be recovered in a summary way by the order and adjudication of some Justice of the Peace of the county in which such offence shall have been committed, on complaint to him for that purpose exhibited, by the oath or affirmation of any person, or on the confession of the party offending, which oath or affirmation such Justice is hereby authorized to administer; and in default of payment of such penalties or forfeitures, or sums for compensation or damage, the same shall be levied by distress and sale of the goods and chattels of the party making such default, by warrant under the hand and seal of such Justice, rendering the overplus (if any) on demand to the party whose goods and chattels shall be so distrained, the reasonable charges of such distress and sale being deducted; and in case such penalties or forfeitures shall not be forthwith paid off, it shall be lawful for such Justice and he is hereby authorized and required to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made of such warrant of distress, unless the offender can give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice, or before some other Justice of the Peace for the county where such offence shall have been committed as aforesaid, on such day or days as shall be appointed for the return of the warrant or warrants of distress, such day or days not being more than *Eight* Days from the taking any such security, and which security any Justice is hereby empowered to take by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereupon to levy the penalty and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he has no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain for any time not exceeding *Three* calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid.

140. Proceedings not to be quashed for want of form.

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or in case of appeal by or before the Assistant Barrister, shall not be quashed or vacated for want of form only.

141. No action to be brought against person acting in execution of this Act, until after notice has been given, specifying the cause of action.

And be it further Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authority herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees or persons against whom proceedings are intended to be commenced, at least *Twenty-one* Days before such action, suit or information shall be commenced.

142. No action to be brought after tender of sufficient amends; if no tender made, money may be paid into Court by leave, before issue joined.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

143. General Issue.

And be it Enacted, That if any action shall be brought against any person or persons as aforesaid for any act, matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give the special matter in evidence.

144. Appeal to Quarter Sessions where parties think themselves aggrieved.

And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing done by virtue of this Act, except in cases hereinbefore provided for, to appeal to the Assistant Barrister at the General Quarter Sessions of the Peace which shall be held in and for the county wherein the matter of complaint may arise, or any adjournment thereof, within *Six* calendar Months next after the cause of complaint shall have arisen, first giving or causing to be given *Twenty-eight* Days' notice thereof, in writing, to the Commissioners or Trustees, or one of them, and to the parties intended to be appealed against; and the Assistant Barrister at the said Quarter Sessions, or any adjournment thereof, is hereby authorized and required to hear and determine the matter of such appeal, and to make such order respecting same, and to award such costs as to him in his discretion shall seem meet, and by his warrant to levy the costs awarded, by distress and sale of the goods and chattels of the parties respectively adjudged to pay the same, and rendering the overplus (if any) to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and every such determination of the said Assistant Barrister shall be final and conclusive on all the parties concerned; and no such complaint, appeal

or

or proceeding shall be removed or removable by Certiorari or any other writ or proceeding whatsoever into any of Her Majesty's Courts of Record in Dublin or elsewhere; but in case such appeal shall appear to the said Assistant Barrister to be frivolous, vexatious or without foundation, then the said Assistant Barrister shall award such costs to be paid by the appellant or appellants as to him in his discretion shall seem reasonable, and to be levied in manner aforesaid.

145. Commissioners not liable for damage arising to lands, &c. from insufficiency of embankments, &c., unless notice previously given.

And be it Enacted, That nothing herein contained shall be construed to render the said Commissioners or Trustees respectively liable for any consequential damages which may happen to any land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, said Commissioners or Trustees may take upon them the duty of regulating or maintaining: Provided, nevertheless, That if the owner or occupier of such land shall have given notice in writing to the said Commissioners, or to one of such Trustees, warning them or him of the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring them or him to strengthen, amend and repair the same, and the said Commissioners or Trustees (as the case may be) shall not within *Seven* Days next after the delivery of such notice, take proper precautions to prevent the same, then in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by the said Commissioners or Trustees under this Act.

146. Not to affect the powers of the Shannon Commissioners.

Provided, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested in the Commissioners appointed under an Act passed in the Session of Parliament holden in the second and third years of the reign of Her present Majesty, intituled, "An Act for the Improvement of the Navigation of the River Shannon."

147. This Act not to repeal or alter the Act 1 & 2 Will. 4, c. 57, s. 13.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested or which may be vested in any company or person under the provisions of an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to widen, embank and remove Obstructions in Rivers."

148. Provision for taxation of costs.

And be it Enacted, That in case any solicitor or attorney shall be employed to perform any business for any of the purposes of this Act, it shall be lawful for any person who shall be chargeable with any portion of the costs of performing any such business, to apply to the Court of Chancery for taxation of such costs and charges, although no part thereof shall be incurred for any business done in any court;

and it shall be lawful for such Court of Chancery to direct a taxation of such costs and charges by a Master of the Court of Chancery, upon the undertaking and security of such person to pay his proportion of the amount of such costs when taxed, and upon such other terms (if any) as to such Court shall seem fit, and such costs shall be taxed accordingly; and such attorney or solicitor shall have such and the like remedies against all parties chargeable with such costs as in the case of costs incurred for business done in such Court respectively, and taxed, ascertained and certified in pursuance of the order of such Court respectively.

149. Definition of terms in this Act

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act shall exclude such construction), the word "Land" shall extend to all arable, pasture or otherwise profitable, and to all waste uncultivated land, whether bog land, land periodically flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other hereditaments corporeal or incorporeal, and any estate or interest therein, and any undivided part thereof, and any charge or incumbrance thereon; and the word "River" shall extend to all rivers, lakes, canals, streams and estuaries; and the words "Person or Persons," and the words "Proprietor or Proprietors," shall extend to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the word "Counties" shall extend and be applied to all counties, counties of cities and counties of towns; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

150. Piers not to be constructed without leave of the Admiralty.

Provided, and be it Enacted, That nothing in this Act contained shall authorize the said Commissioners or any trustees elected hereunder, or any other person, to construct or erect any pier, quay, wharf, jetty, breast or embankment in or adjoining to any public harbour, or any river immediately communicating therewith, so far as the tide flows up the same, without the previous authority and consent of the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral of the United Kingdom, to be for that purpose signified in writing under the hand of the Secretary of the Admiralty for the time being.

151. Act may be altered.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE

SCHEDULE

To which this ACT refers.

BY the Justices and Associate Cess-payers at the Presentment Session held at in the county of on for the barony (or half barony or county at large) of [here state the name of the barony or county for which the Presentment Sessions are held].

We declare that we approve of the works proposed to be made for improving the navigation of [state the river, &c.] and described in the report, schedules, maps, plans and estimate deposited with the Clerk of the Peace of the county of by the Commissioners for carrying into effect an Act passed in the fifth year of the reign of Her present Majesty, intituled, [here state the title of this Act], and laid before us: and we further agree and consent that the proportion of the costs and expenses of so much of the said works as shall relate to such navigation which shall be assessed upon the barony (or half barony or county) of or any townland or townlands thereof, under the provisions of the said Act, shall be raised off the said barony (or half barony or county) or townland or townlands respectively.

Signed on behalf of the said Presentment Session.

A. B.,

Chairman of the said Presentment Session.

A

B I L L

To promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland.

(*Prepared and brought in by Lord Eliot and Mr. Solicitor General for Ireland.*)

Ordered, by The House of Commons, *to be Printed,*
22 *March* 1842.

[*Price* 9 *d.*]

125.

Under 12 *oz.*

(Ireland.)

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B I L L

[AS AMENDED BY THE COMMITTEE]

To promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland.

[N. B.—*The Clauses marked* (A.) *to* (N.) *were added by the Committee.*]

Preamble.

WHEREAS it is expedient that provisions should be made for promoting the Drainage of Lands in Ireland, and the improvement of Navigation and Water-power in connexion with Drainage; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Commissioners of Public Works in Ireland for the time being shall be the Commissioners for the execution of this Act.

1. The Commissioners of Public Works to be the Commissioners under this Act.

2. Two additional Commissioners may be appointed.

Provided always, and be it Enacted, That it shall and may be lawful to and for the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, by warrant under the hands of any Three or more of them, if they shall so think fit, to appoint One or Two persons to assist the said Commissioners of Public Works, and be Commissioners together with them for the execution of this Act during pleasure, and to remove either or both of said last-mentioned Commissioners, and to appoint another or others in the stead of the person or persons so removed, or dying or resigning; and that all matters and things which the Commissioners for the

execution of this Act, are by any of the provisions of this Act required or authorized to do or execute, may be done and executed by any Two of them.

3. Any person interested in any land liable to be flooded, may present Memorial to the Commissioners of Public Works, praying that same may be drained under the provisions of this Act.

And be it Enacted, That it shall be lawful for any person interested in any land liable to be flooded or injured by water, or capable of being drained, or the drainage whereof may be capable of being improved, to apply by memorial to the Commissioners for the execution of this Act, stating the nature and extent of such land, and praying that the same may be drained, or that the drainage thereof may be improved under the provisions of this Act.

4. Any person interested in any river near to any such land, may present Memorial, praying that the navigation of such river may be improved.

And be it Enacted, That it shall be lawful for any person interested in any river within, adjacent or near to any such tract of land as aforesaid, and which river, or any part thereof, may be capable of being rendered navigable in connexion with drainage, or the navigation whereof may be capable of being improved in connexion with drainage, to apply by memorial to the said Commissioners, describing such river, and praying that the same, or such part thereof as aforesaid, may be rendered navigable, or the navigation improved, in conjunction with the drainage of the land adjacent or near thereto, under the provisions of this Act.

5. Grand Jury may present Memorial when navigation may be effected or improved.

And be it Enacted, That it shall be lawful for the Grand Jury at the Assizes of any county, in which any such river as aforesaid, or any such part thereof, may be situate, to make a presentment directing their Secretary to apply by memorial as aforesaid, for the like purpose, to the said Commissioners, provided, One Month at least before the meeting of such Grand Jury, a notice, signed by One or more cess-payers of such county, specifying that it is intended to bring under the consideration of such Grand Jury the propriety of such memorial, shall have been published in Three successive publications of a newspaper circulating in such county, and shall have been Ten Days before such meeting of such Grand Jury posted at the usual places for posting Grand Jury notices in every barony in such county in which any such river or such part of a river proposed to be improved is situate, in the same manner as notices for applications are to be posted under an Act passed in the Session of Parliament holden in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled, "An Act to consolidate and amend the Laws relating to the Presentment of Public Money by Grand Juries in Ireland."

6. Where Memorial presented, Commissioners may

And be it Enacted, That in every case of application by memorial as aforesaid, the said Commissioners shall require such a sum to be deposited in their hands by or on behalf of the person or Grand Jury

Jury so applying as shall be sufficient for defraying the expense of making the preliminary inquiries, inspection and report hereinafter mentioned, and shall also, whenever afterwards they shall have notified their approval of the matter of such memorial, require to be deposited in their hands by or on the part of such person or Grand Jury, such sum as shall be sufficient for defraying the expenses of making the further surveys, schedules, maps, plans, drawings, sections and estimate hereinafter directed to be made, respecting the land or river proposed to be drained or improved respectively, and the works necessary for draining and improving the same, and for defraying the expenses of all other measures hereinafter directed to be taken for the purposes hereinafter expressed, previous to the actual commencement of any works under the provisions or this Act.

require a deposit to be made for defraying preliminary expenses.

7.
Grand Jury may direct the Treasurer of the county to deposit the sum required to be deposited with the Commissioners.

And be it Enacted, That it shall be lawful for any Grand Jury who shall direct any such application by memorial, as aforesaid, to present (without application to Presentment Sessions) any sum which they shall think necessary for or towards providing the amount of such first deposit as aforesaid, or, if they shall think fit, for or towards providing the amount of both such deposits; and in case such Grand Jury shall present only the sum necessary for such first deposit, it shall be lawful for the Grand Jury at any subsequent Assizes, in like manner, without application to Presentment Sessions, if they shall so think fit, to present the sum necessary for the second deposit; and the amount so presented in either of such cases shall be raised off such baronies and half baronies as shall be specified in such presentment, and to direct the Treasurer of the county, out of any public monies which he may have in his hands, to lodge with the said Commissioners such first deposit, or both such deposits, according as such Grand Jury shall direct in such presentment, and as the said Commissioners shall require, for defraying the expenses aforesaid; and such Treasurer shall make such deposit, and the amount so presented shall be raised and levied accordingly; and in case the deposit or deposits required by the said Commissioners shall not amount to the sum so presented, the surplus shall be applied to such purposes as other public monies levied off such baronies or half baronies may be applicable.

8.
Commissioners may appoint person to inspect the land or river, and to report thereon.

And be it Enacted, That whenever any such memorial as aforesaid shall be presented to the said Commissioners, and the sum required to be deposited with them for the purpose of making such inquiry, inspection and report as aforesaid shall have been deposited accordingly, the said Commissioners shall direct some engineer or other competent person to inspect, and, if the said Commissioners shall deem fit, to make a survey of the land or river referred to in such memorial, or of any other land or river of which they shall deem it necessary for

for the purposes of such memorial that a survey should be made, or to examine any survey already made thereof, which the said Commissioners shall think sufficient, and to inquire into and ascertain the present state of such land or river, and the capacity of the said land for improvement by drainage, and the probable increase in the value of such land when so improved, and also the capacity of such river for improvement, and further to ascertain whether any existing navigation would be injured by the works necessary to be executed for drainage, or whether any useful or necessary navigation would or might be effected or improved either immediately or remotely in conjunction therewith, and whether it may be necessary or expedient for the execution of such works to purchase, remove, injure or alter any weir, dam, mill, factory or other building or property, and whether any and what improvement would or might be effected in any existing water-power, and whether any new water-power would or might be created in conjunction with such works, and whether, for the prevention of sudden floods and the preservation of surplus water for the supply of towns, mills, factories or navigation, or for the irrigation of or the warping or depositing soil by means of water on any lands where same shall be a beneficial manurance, that any and what reservoirs should be constructed; and such engineer or other person shall report to the said Commissioners the nature, extent and probable expense of effecting the purposes aforesaid, and the lands, mills, factories, weirs and other property to be affected by such works, and the benefit or injury likely to arise to such lands, mills, factories, weirs and other property respectively from such works, and the several matters aforesaid.

Commissioners, &c. may enter lands for the purposes of survey or inquiry.

9. And be it Enacted, That for the purposes of any inspection, survey or inquiry directed, or necessary under any of the provisions of this Act, it shall be lawful for the said Commissioners, by themselves, their surveyors, engineers, agents, officers and workmen, to enter upon any lands or premises in any district within which it is proposed that any works shall be executed under this Act, or any lands and premises adjoining thereto, and, if necessary, to dig or bore therein, and also to examine any weir, sluice or floodgate erected in or upon any river or stream which it shall seem to them to be necessary to examine, and to open or raise any such floodgate or sluice for the purposes of any such inquiry, and to make any soundings or bore the bed or channel of any part of such river, or any mill-course connected therewith, making reasonable compensation for any damage done thereby; and the amount of such compensation shall be ascertained by Two or more Justices of the Peace at Petty Sessions in or for the district wherein any such damage shall be committed, and they are hereby authorized and required to inquire into and determine same, and for that purpose to examine all such witnesses as shall be produced before them, and to make such order as to them shall seem just for the payment of the amount of such damage

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by the Commissioners to the party aggrieved, which said order shall be final and conclusive: Provided always, That the said Commissioners, their surveyors, engineers, agents, officers and workmen may enter upon such lands as aforesaid, and do all necessary matters and things by this Act authorized, previously to or pending the decision of such Justices.

10. If Commissioners think it inexpedient to execute the necessary works, they are to decide accordingly.

And be it Enacted, That if, on the report of such engineer or other person, the said Commissioners shall consider that the benefits likely to arise would not be commensurate with the probable cost of the necessary works, or if from any other consideration the said Commissioners shall deem it inexpedient that the land or river referred to in any such memorial as aforesaid should be drained or improved under the provisions of this Act, they shall decide accordingly, and shall transmit to the person or Grand Jury who shall have presented such memorial relating thereto, a notification in writing of their determination, together with a copy of such report.

11. If the Commissioners approve of the works proposed, they shall cause copies of the Report to be deposited for public inspection.

And be it Enacted, That if on the report of such engineer or other person the said Commissioners shall consider it expedient that any works should be undertaken, they shall notify in writing to the person, or to the Secretary of the Grand Jury, who shall have applied by memorial as aforesaid, their approval of the matter of such memorial, and shall cause copies of the report to be made, and shall deliver a copy thereof to any person who shall apply for the same, on payment of the reasonable expense of preparing such copy; and shall also cause copies of such report to be deposited with the Clerk of the Peace (and, where any navigation is proposed to be improved by such works, with the Secretary of the Grand Jury) of every county in which the land or river, or the part thereof proposed to be drained or improved, shall be situate, and also in such and so many convenient places in the district where the said works are proposed to be executed, or in the vicinity thereof, as the said Commissioners shall think necessary, there to remain open for public inspection at all reasonable times for Six successive Weeks; and they shall cause notice of the places where such copies are deposited to be given by public advertisement in some newspaper circulating in such county or counties, or otherwise, as to them shall seem expedient.

12. Commissioners to cause surveys, &c. to be made.

And be it Enacted, That if in the last-mentioned case the said Commissioners shall deem it expedient, they shall, upon receiving such deposit as aforesaid of a sum sufficient for the purpose, cause further surveys to be made of the land proposed to be drained or improved, and of the river proposed to be improved in connexion with such drainage, and proper schedules, maps, plans and sections to be

prepared, describing the district within which it is proposed to put the powers of this Act into execution, and showing the land to be drained or improved by such drainage, and showing in one or more of such schedules the owners, lessees and occupiers thereof, and the lands or other property required to be taken for, or likely to be injured by, the proposed works, and the proprietors, lessees and occupiers thereof, and showing, so far as may be possible, the line, course and situation of the streams, watercourses, drains, rivers and lakes intended to be cleared, scoured or embanked, and the requisite variations, divisions, abridgments or enlargements of the same, and the direction and extent of any new drains, watercourses or works necessary to be made, and the land in and through which the same are to be made; and they shall also cause to be made an estimate of the expense of the proposed works, including in such estimate the probable amount of money payable as compensation in respect of any injury likely to be occasioned by such works, or for the purchase of any land, houses, fisheries, weirs, mills or other property required to be taken or purchased for the purpose of such works, and other miscellaneous expenses likely to be incurred; and they shall also cause the then actual value of the land to be drained or improved by drainage by the proposed works to be ascertained, in such manner and by such means as they shall think proper, and the probable increase in such value by the proposed works; and such actual value and estimated increase shall be stated in the said schedules, and also the proportions in which such lands shall contribute towards the payment of the costs of the proposed works, specifying such proportions in the ratio of the estimated increase in the value of such lands; and in every case where the navigation of any such river or such part of a river as aforesaid shall be proposed to be improved, every such estimate shall also and separately specify the amount of the costs which will be incurred in the execution of such of the proposed works as shall be necessary for the improvement of the navigation of such river or part of a river, and the district likely to be benefited by such improvement, and the baronies, half baronies or townlands in such district, and the proportions in which such baronies, half baronies or townlands, whether situate in one or more counties, are likely to be benefited, and should contribute to such costs; and the said Commissioners shall cause to be made copies of the said schedules, maps, plans, sections and estimate, and shall cause such copies to be deposited in such convenient place or places as the said Commissioners shall think proper, within or in the immediate vicinity of the district in which such land or river or part of a river shall be situate, there to remain open for public inspection at all reasonable times for Six successive Weeks, which period may be reckoned concurrently with the period hereinbefore limited for the publication of the Report before mentioned; and all persons shall be at liberty to inspect and make

copies

copies of or extracts from the said schedules, maps, plans, sections and estimate, and copies thereof or extracts therefrom shall be made for any person who shall require the same, on payment of the costs of making such copies or extracts.

13. A notice shall be published and posted, stating that maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of the said schedules, maps, plans, sections and estimate have been deposited as aforesaid, to be published in some newspaper usually circulated in the district in which the land or river or part of a river proposed to be drained or improved shall be situated, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in or near such district; and in all cases where it shall be proposed that the navigation of any river or part of a river shall be improved, a copy of such notice shall be served on the Secretary of the Grand Jury or Grand Juries of the county or counties in which such river or part of a river so be improved shall be situate; and in all cases where it shall be proposed to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction connected with any mill or factory, a copy of such notice shall be served on the owner, lessee or occupier or person in charge of such mill or factory, or posted on the door or wall thereof; and by such notice all parties interested shall be required, on or before a day to be therein named, not sooner than Six Weeks from such publication and posting or service as aforesaid of such notice, to transmit to the Secretary of the said Commissioners their objections, if any, to the said schedules, maps, plans, sections and estimate, and all other objections which such parties shall think fit to make with respect to any thing proposed to be done by the said Commissioners under the provisions of this Act.

14. Grand Jury may appoint Committee.

And be it Enacted, That in every case in which it shall be proposed that the navigation of any such river or part of a river as aforesaid should be improved, in conjunction with the drainage of the adjacent lands, it shall be lawful for the Grand Jury at the Assizes of each county in which any such improvement is proposed to be made, to appoint a committee to act for the purposes hereinafter mentioned, until removed as hereinafter provided; and such committee shall consist of Seven persons, each of whom shall be a member of such Grand Jury, or shall have served upon some former Grand Jury at the Assizes of such county, or shall be a Justice of the Peace of such county; and any Three of such committee shall form a quorum; and it shall be lawful for the Grand Jury, at any subsequent Assizes, to remove any member of such committee, or to fill up any vacancy anywise arising in such committee, or to appoint a new committee.

15. Committee of Grand Jury empowered to attend Meeting, and to object to the proposed works for navigation.

And be it Enacted, That it shall be lawful for the committee for the time being appointed by any such Grand Jury as aforesaid, to transmit to the said Commissioners such objections as such committee shall think proper to the said report, schedules, maps, plans, sections and estimate which shall have been deposited as aforesaid, and also to attend at any meeting to be convened by the said Commissioners under the provisions of this Act, as next hereinafter mentioned, and at such meeting to support such objections, or to make such other objections, as such committee shall think proper.

16. Meeting of the persons interested to be called by public notice.

And be it Enacted, That the said Commissioners shall, either by the notice to be published and posted as aforesaid, or by a subsequent notice to be published and posted in like manner, call one or more public meetings of all persons interested in the land or river or part of a river proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of Six Weeks, and at such convenient place or places within the district wherein such land or river or part of a river so to be improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice: Provided always, That if the said Commissioners shall call such one or more meetings by a subsequent notice, as before provided, they shall fix for such meeting a day not sooner than Twenty-one Days from the date of such subsequent notice.

17. Proceedings at Meeting.

And be it Enacted, That at the time and place named in such notice as aforesaid, the said Commissioners shall attend, and shall have power to adjourn from time to time, or hold such new meeting as they may find necessary, and shall inquire into the correctness of the schedules containing the names of such proprietors and occupiers as aforesaid, and shall hear all such objections as shall have been or shall then be made by any person or persons interested in said lands or river, or any persons on his or their behalf, as to any omission or mis-description in such schedules, or any name improperly inserted therein, and shall hear all such other pertinent objections as shall have been or shall be then and there made by such person or persons to the schedules, maps, plans, sections and estimate which shall have been made under the provisions hereinbefore contained; and the said Commissioners shall also hear and inquire, on oath or otherwise, into all such objections, by any of the persons aforesaid, to the said proposed works as shall have been or shall then and there be made, and also all objections to the stated value of the land, or to the stated probable increase in such value, as the same shall have been respectively set forth in the said schedules, and also into all such objections as shall have been made, or shall then

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and there be made, by or on behalf of the owner, lessee or occupier or other person interested in any mill or factory likely to be affected by any thing proposed to be done by the Commissioners under any of the provisions of this Act; and after having considered all such objections as aforesaid, they shall cause such alterations (if any) as they may deem expedient to be made in the said schedules, maps, plans, sections and estimate, and shall sign the same; and the said Commissioners shall receive and hear all such evidence as may be offered to them in relation to the several matters aforesaid, and shall give to the persons present at such meeting full information respecting the nature and extent of the proposed works, and shall take or receive the assents, in writing, of the proprietors of the lands comprised in such schedules, to the execution of the proposed works; and such schedules, maps, plans, sections and estimates so signed by the said Commissioners, and the assents which shall be given, shall be preserved by the said Commissioners in their office in Dublin, and a copy thereof shall be deposited with the Clerk of the Peace of each county wherein such works are proposed to be executed, and shall be open to public inspection at all reasonable times, on payment of a fee of One Shilling, and shall, when required by the Secretary of the Grand Jury of any such county, be produced for inspection at any Presentment Session to be held within such county.

18. Clause (A.) Power to Commissioners to adjourn Meetings.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to adjourn any of the meetings to be held by them under this Act to such time and place as they may think proper.

19. Presentment Session and Grand Jury may approve of Works, and undertake to pay the costs thereof.

And be it Enacted, That in every case in which it shall be proposed that any river or part of a river shall be made navigable, or the navigation thereof improved as aforesaid, it shall be lawful for the Justices and associated cess-payers, at the Presentment Session of each barony or half barony within the district likely to be benefited by the improvement of such river or part of a river, and also at the Presentment Session to be holden for the county at large, at any time previous to, or within Twelve Months after, the time of holding such meeting as last aforesaid, to make a declaration in the form in the Schedule to this Act annexed, or as near thereto as may be convenient, approving of the proposed works, and consenting that such proportion of the costs and expenses of effectuating the portion of the works relating to the improvement of the navigation of such river as shall be assessed upon such barony or half barony, or any townland or townlands, or upon the county at large, under the provisions of this Act, shall be raised off such barony, half barony or townlands, or such county at large respectively; and every such declaration shall be delivered to the Secretary of the Grand Jury of such county, and shall be laid by him before the Grand Jury of the said county at the next ensuing Assizes, together with the report, schedules, maps, plans, sections

and estimates relating thereto; and it shall be lawful for such Grand Jury to make presentment allowing or disallowing the same; and it shall be lawful for any person liable to be assessed under and by virtue of any Grand Jury Presentment, for any proportion of such costs and expenses, to traverse any such presentment; and such traverse shall be made and tried and in all respects disposed of as any traverse of any similar presentment under any Act or Acts in force in Ireland relating to the presentment of public money by Grand Juries in Ireland; and all the provisions of any such Act or Acts, in relation to the traverse of any presentment, shall apply to such presentment so to be made under this Act, and to any traverse thereof to be so made as aforesaid.

20. If Presentment Session and Grand Jury refuse or neglect, any person mayguarantee the payment of such costs.

And be it Enacted, That if any such Presentment Session shall decline to make such declaration as aforesaid, or if such Grand Jury shall decline to make presentment thereupon accordingly, then it shall be lawful for any person whomsoever to guarantee or otherwise secure the payment of such proportion of such expenses to the said Commissioners.

21. No Drainage Works to be commenced, unless proprietors of Two-thirds of the land assent.

And be it Enacted, That no works shall be commenced for the drainage of any land under or by virtue of this Act, unless the proprietors of Two-thirds or more in extent of such land shall assent to the execution thereof in writing under their hands respectively, within such time as the said Commissioners shall appoint.

22. Work not to be commenced till declaration made; nor unless Two-thirds of the proprietors of adjacent lands to be drained, assent.

And be it Enacted, That no work for the improvement of the navigation of any such river or part of a river as aforesaid shall be commenced, unless such declaration as hereinbefore mentioned shall have been made at the Presentment Session or Sessions of the barony or half barony, baronies or half baronies, which singly or collectively shall, according to the estimate of the said Commissioners, be liable to contribute Two-thirds or more of the full estimated espenses of improving such navigation, approving of the proposed works, and consenting to pay the expenses as aforesaid, and unless a presentment allowing the same shall have been made by the Grand Jury of the county in which any such baronies or half baronies are situated, or unless some person shall guarantee or otherwise secure the payment of such expenses; nor shall any such works be commenced, unless the proprietors of Two-thirds or more in extent of the land proposed to be drained or improved in connexion with such navigation as aforesaid, shall also assent to the execution thereof in writing under their hands respectively.

23. Who shall be deemed proprietors.

And be it Enacted, That any person seised of or entitled to any portion of the land proposed to be drained or improved by drainage, in possession as tenant in fee-simple or in fee-tail, general or special, or

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as tenant by curtesy, and also any person who shall be entitled under any will or settlement, or any other deed or instrument (except a grant or lease reserving rent or an agreement in writing for such grant or lease) for his own life, or the life of any other person, or for years determinable on such life or lives, and also any person who shall be entitled under any lease granted by a Bishop or any collegiate or ecclesiastical body, or under any lease granted by any person having immediate or derivative title from or under any Bishop or any collegiate or ecclesiastical body, which lease shall contain a toties quoties covenant of renewal, and also any person who shall be entitled under any grant, lease or any other deed or assurance for an estate in fee, or for a term of years absolute, whereof Forty Years or more shall be unexpired, or for an estate or interest for any life or lives renewable for ever, or for any term or terms of years either absolute or determinable or renewable for ever, whether such last-mentioned person shall be entitled to any such estate, term or interest, either absolutely or as tenant in tail, or as quasi tenant in tail, or for his life, and also every feoffee or trustee of any such land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, shall be deemed a proprietor of such land for the purposes of this Act; and in every case in which any person seised, possessed of or entitled to any such land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall, subject to the provisions hereinafter contained, be deemed a proprietor of such land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any land so proposed to be drained, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed the proprietor for the purposes of this Act, as shall be in actual occupation of the said land, or as shall have such estate or interest as aforesaid therein next in reversion or remainder to the estate or interest of the person in actual occupation.

24. Persons entitled to certain interests, upon giving security to be deemed proprietors.

And be it Enacted, That at any time before such meeting as last aforesaid, or at any period within such time as may be appointed by the Commissioners for the receiving of assents, and which time they are hereby authorized to limit and appoint, any person seised or possessed of any portion of the land proposed to be drained or improved,

improved, for any life or lives, or for any term of years determinable on any life or lives, or for any term of years absolute, whereof there shall be then Seven Years or more unexpired, who shall deposit with the said Commissioners such sum of money as to them shall seem sufficient for the payment of the sum with which such portion of land may become chargeable for or in respect of the costs and expenses of the works proposed to be executed, shall be deemed the proprietor of such land, and the person entitled to assent for the purposes of this Act: Provided always, That in case several such persons shall desire to become assenting proprietors, and to make such deposit as shall be so required, preference shall be given to such of the said persons as shall be in actual occupation of the lands; and in case the person so in occupation shall not so desire, or shall not make such deposit, then the person who shall have the next estate or interest in such lands greater than that of such occupier or occupiers thereof, and shall so desire, and make such deposit, shall be preferred, and so on, that person (if there be more than one signifying such desire, and so making such deposit) being always preferred who shall have, among such persons as last aforesaid, such estate or interest as aforesaid nearest in order to and greater than that of the occupier of such lands: Provided also, That in case any such person shall become such assenting proprietor, no other person shall be considered the proprietor of such lands for the purpose of assenting under the provisions of this Act.

25. Trustees, &c may apply to Court of Chancery for leave to assent.

Provided always, and be it Enacted, That it shall and may be lawful for any feoffee or trustee for charitable or other purposes, and also for any guardian, husband or committee of any infant, feme covert, or idiot or lunatic, respectively (on behalf of their respective infants, idiots, wives or lunatics), to apply, if they shall think fit, in a summary way, by petition, to Her Majesty's Court of Chancery in Ireland, for leave to assent to the execution of any works proposed to be done under the provisions of this Act; and the said Court shall have power to inquire into the propriety of giving such assent, and to make such order on the petition, and as to the costs thereof, as to the Court shall seem meet; and if the Court shall authorize any such assent being given, then it shall be lawful for the person who shall have presented the petition to give such assent, and the same shall be as binding and effectual, to all intents and purposes whatsoever, as if the person giving the same had been the actual proprietor of the lands in respect of which such assent shall be given.

26. Joint tenants to be accounted as one person.

And be it Enacted, That joint tenants, tenants in common, and co-parceners jointly interested in any portion of land proposed to be drained or improved, shall, in respect of the land in which they are so interested, be accounted as one person: Provided always, That the concurrence of the person or persons interested in, or possessing Two-thirds

thirds of the estate or interest in such portion of land shall be sufficient for the purpose of giving such assent as aforesaid.

27. Concurrence of lessee holding for a life or lives, or for a residue of a term of years of which not less than Seven Years are unexpired, to be necessary in certain cases.

Provided always, and be it Enacted, That where any portion of land proposed to be drained or improved by drainage shall, at the time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease or agreement in writing for a lease, for a life or lives, or for a term of years, whereof more than Seven Years shall be unexpired, the consent in writing of such person shall be necessary in order to give validity to the assent of the proprietor, in respect of the lands comprised in such grant, lease or agreement, any thing hereinbefore contained to the contrary notwithstanding.

28. Clause (B.) Assents may be given by persons authorized, or their agents.

And be it Enacted, That the assents and consents of proprietors or other persons required to be given in writing for any of the purposes of this Act, may be given by the known agent or attorney of any such proprietor or person.

29. Where the weir, dam, &c. of a mill or factory causes occasional flooding, the Commissioners shall have power to construct works for the discharge of the surplus water, and shall declare the level of the water at which the working water-power shall be secured.

And be it Enacted, That in cases where, from the damming up of any river or stream by the weir, dam or other work or obstruction of any mill or factory, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Commissioners to construct any reservoir, embankment, tunnel or back-drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in the dams, weirs, works, obstructions or watercourses connected with such mills or factories which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharge of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any such mill or factory shall not be thereby lessened; and the level of the water at which such amount of working water-power shall be secured, shall be previously inquired into and ascertained by the said Commissioners; and all persons interested in such mill or factory or in any land to be drained as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinbefore directed to be held, or at any meeting to be called by the said Commissioners for such purpose; and the said Commissioners shall hear and decide upon all such objections, and declare what such level shall be, and shall state the same in the declaration hereinafter directed to be made by the said Commissioners; and the said Commissioners, in case they shall so interfere with any such mill or factory, shall also cause a stone cill or gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory, on which shall be marked in clear

and legible figures or letters the due and proper level of water ascertained and declared as aforesaid.

30. Where the weir, dam, &c. of a mill or factory by flooding causes injury, or prevents improvement to an extent equivalent to the value of such mill or factory, all necessary alterations may be made therein, if the water-power be not lessened thereby.

And be it Enacted, That if any weir, dam or other work or obstruction connected with any mill or factory shall cause the flooding of any lands included in any district in which this Act shall be brought into operation, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such lands, or prevent their improvement, and if such flooding cannot, in the opinion of said Commissioners, be otherwise remedied or prevented, it shall be lawful for the said Commissioners, so far as shall be necessary for remedying or preventing such flooding and injury, or such impediment to the improvement of such lands as aforesaid, to alter any such dam, weir, work or obstruction, or the position or level thereof, and to raise or lower or alter any water-wheel or any machinery immediately attached thereto, and the levels of the head and fall of any water to such mill or factory: Provided always, That in all cases where any such raising, lowering, or alterations as aforesaid shall be effected, the amount of working water-power of such mill or factory or water-wheel shall not be in anywise lessened thereby, and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising, lowering, modification and alteration respectively, or necessary or proper and sufficient for the due, convenient and permanent working of such mill or factory, with such full amount of working water-power, shall be made, provided, erected, fitted and placed by such Commissioners in a workmanlike manner, and with proper and durable materials, and that such Commissioners and the Trustees to be appointed as hereinafter mentioned, shall (save as hereinafter provided) from time to time, and at all times, uphold, maintain and keep in repair all such additional sluices, cuts, dams, gates and other works as shall be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which shall be provided or imposed in relation to any lands in such district under the provisions of this Act: Provided also, That nothing in this Act contained shall be deemed or construed to create or confer any right to any water in respect to any mill or factory to which the owner or occupier would not have been entitled if this Act had not been passed.

31. Where the weir, dam, &c. of any mill or factory causes injury, or prevents

And be it Enacted, That if any weir, dam, or other work or obstruction belonging to or connected with any mill or factory shall cause the flooding of any such lands included in any such district

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as aforesaid, so as thereby to injure such lands, or prevent their improvement to an extent in value equivalent to or exceeding Three times the then present value of such mill or factory, it shall be lawful for the said Commissioners, in case they shall not agree for the purchase of such mill or factory, weir, dam and other work to take the same, and to award compensation for the value thereof, in like manner and subject to the like appeal as by this Act provided in reference to any land to be taken by the said Commissioners for the purpose of any works to be executed under this Act.

improvements to an extent in value three times greater than the value of such mill or factory, same may be taken by the Commissioners at a valuation as any land under this Act

32.

Provided that before any mill or factory shall be interfered with, the declaration shall contain the necessary statements with respect thereto.

Provided always, and be it Enacted, That before the said Commissioners shall proceed to take any such mill or factory, and the works connected therewith, as aforesaid, or to effect any such constructions, erections, lowering, raising, or alteration as aforesaid, the said Commissioners shall insert in the declaration, which they are hereinafter required to make, such statement with respect to the several matters aforesaid as hereinafter directed to be made in cases where any mill or factory is proposed to be interfered with.

33.

Commissioners shall make declaration;

And be it Enacted, That at or after the meeting hereinbefore directed to be convened by the said Commissioners, and if then or within such period as shall have been limited and appointed by them as hereinbefore provided, the proprietors of Two-thirds or more in extent of the land proposed to be drained or improved by drainage shall have assented in writing to the execution of the proposed works, the said Commissioners shall make and sign a declaration, describing the land proposed to be drained or improved, and declaring the then actual value thereof, and the estimated increase in such value by means of the proposed works, and the proportions with which such land shall be chargeable towards the costs of the proposed works, such proportions being fixed according to such actual value and such estimated increase as aforesaid; and also stating therein the names, additions and residences of the proprietors who shall have assented to the execution of the proposed works, and the land belonging to them respectively, and in respect of which they shall have so assented; and in such declaration shall also be described the river (if any) the navigation whereof is proposed to be made or improved, and the baronies, half baronies or townlands in the district likely to be benefited by the making or improvement thereof, and the proportions in which such baronies, half baronies and townlands will be so benefited; and in all cases wherein any mill or factory, or any weir, dam or other work or obstruction belonging to or connected with any mill or factory, shall cause flooding, so as thereby to injure or prevent the improvement of such land as aforesaid, it shall be stated in such declaration that such mill or factory, or such weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether such

stating the names of assenting proprietors;

and in cases of navigation, the baronies, &c. benefited;

and in cases when injury is caused by any mill or factory, &c. the amount of injury caused by same, and the restrictions under which same may be taken or interfered with.

such injury or prevention of improvement be to an extent in value or exceeding Three times the value of such mill or factory; and in case such injury or prevention of improvement be to an extent in value less than Three times the value of such mill or factory, it shall be stated in such declaration whether, in the opinion of the Commissioners, the flooding of said lands cannot be remedied without altering such dam, weir, work or obstruction, or the position or level thereof, and also the amount of the actual working water-power of such mill or factory, also the level of the water at which the amount of working water-power theretofore enjoyed by such mill or factory can be secured; and such declaration shall be printed, and copies thereof deposited with the Clerk of the Peace, and (when it is proposed that any navigation shall be made or improved by such works) with the Secretary of the Grand Jury, of each county in which the land or river or any part thereof proposed to be drained or improved by drainage is situate, and also in such convenient places as the said Commissioners shall think fit; and in all cases where it is proposed to interfere with any mill or factory, or any works or appurtenance thereof as aforesaid, the said Commissioners shall deliver or cause to be delivered to the owner or occupier of any such mill or factory, or to his clerk, agent or servant superintending the same, a copy or duplicate of such declaration as aforesaid, together with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill or factory; and all persons may inspect and take extracts of or copies from such declaration; and all persons requiring copies of or extracts from such declaration, to be made by such Clerk of the Peace, shall be entitled to the same on payment of the costs thereof, not exceeding Three halfpence for every Seventy-two words.

Declaration to be printed, published and deposited for public inspection;

and in cases of mills or factories, &c. a copy shall be served on the owners, &c. thereof.

34. Notice to be given of the places where copies of the declaration shall be deposited.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published in some newspaper usually circulated in the district in which the land or river proposed to be drained or improved shall be situate, or in the immediate vicinity thereof, and also to be posted in the usual places for posting Grand Jury notices in every barony of the county in which any part of such district shall be situate; and each copy of such notice which shall be so posted shall have annexed thereto a list of the names, additions and residences of the proprietors who shall have so assented as aforesaid.

35. General Appeal to Assistant Barrister.

And be it Enacted, That if any person shall be aggrieved by the declaration which shall be so made by the said Commissioners, or by any thing contained therein or omitted therefrom, or by any other act, deed, matter or thing whatsoever, done or omitted to be done by the said Commissioners under or by virtue of the provisions hereinbefore contained, or any of them, it shall be lawful for such person to appeal against

against or in respect of such declaration, or any such act, deed, matter or thing, to the Assistant Barrister, at the first Quarter Sessions of the Peace or adjournment thereof to be holden in and for the division of the county wherein any part of the land or river proposed to be drained or improved shall be situate, which shall be holden next after the publication of such declaration, or next after the cause of complaint shall have arisen in respect of which such appeal shall be made; and the person so appealing shall give Fourteen Days' notice at least, in writing, of such appeal, to the said Commissioners, and within Four Days after the date of such notice, enter into recognizance before some Justice of the Peace for such county, in the sum of Twenty Pounds, with Two sufficient sureties, each in a sum of Ten Pounds, conditioned to try such appeal, and to abide by or to submit to such order as shall be made thereon, and to pay such costs as shall be awarded by the Assistant Barrister at such Quarter Sessions, or any adjournment thereof, provided that, for want of sufficient time for giving such notice previous to the next Quarter Sessions, or adjournment thereof, then such appeal, under the like recognizance and with the like notice, may be made at the Quarter Sessions, or adjournment thereof, to be holden in and for such division next after the expiration of Fourteen Days' from the publication of such notice, or the cause of complaint arising.

36. Proceedings before the Assistant Barrister.

And be it Enacted, That the Assistant Barrister at such first or second Quarter Sessions, or any adjournment thereof, upon proof of such notice as aforesaid, and of the entering into such recognizance, shall hear and determine the matter of such appeal, and make such written order thereon as to him shall seem fit; and such Assistant Barrister may order the costs of any such appeal to be paid wholly or in part by the said Commissioners, or the party appealing; and if same shall be ordered to be paid by the party appealing, such Assistant Barrister may, by a warrant under his hand, direct same to be levied by a distress and sale of his goods and chattels: Provided always, That nothing herein contained shall be construed to authorize or empower any Assistant Barrister to make any order directing that the general execution of the proposed works shall not be proceeded with unless it shall appear before him that the proprietors as aforesaid of Two-thirds in extent of such lands have not assented, as hereinbefore required, or to make any order affecting the peculiar mode of construction of any of the works which shall have been approved of by the said Commissioners, or to make any order affecting the costs of carrying the said proposed works into execution: Provided also, That in all cases of appeal respecting mills or factories only, if the said Commissioners or the appellant shall be dissatisfied with the decision of the Assistant Barrister, it shall be lawful for such Commissioners or appellant, within One Month after such decision, to apply by petition in a summary way to the Court of

Chancery or Exchequer, by way of appeal against such decision, and such Court may direct the notes of the evidence taken on such hearing to be furnished by such Assistant Barrister, and shall make such order thereupon, whether for a re-hearing before such Assistant Barrister, or otherwise, as shall appear just: Provided also, That the proceedings on such petition shall not, in case the decision of such Assistant Barrister shall be in affirmance of such declaration, stay the prosecution of such works, but the Commissioners may proceed with the same, subject to such order of such Court respecting the prosecution, modification or stoppage of such works, or respecting such mill or factory, or for compensation to the party interested therein, or otherwise, as the Court may deem just; and such order shall be binding and conclusive on all persons whomsoever.

37. Commissioners to give a final notice that all the requisites of the Act have been complied with.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the Assistant Barrister as aforesaid, shall have been concluded, the said Commissioners shall give a final notice that all the requisitions of this Act, with respect to the land or river proposed to be drained or improved, have been duly complied with, and a copy of such notice, signed by the said Commissioners, shall be published in the Dublin Gazette, and in some newspaper usually circulated in the district wherein such land or river shall be situate, or in the vicinity thereof, and shall be posted on the usual places for posting Grand Jury notices in the barony or baronies in which such district shall be situate.

38. Publication of notice to be conclusive.

And be it Enacted, That the publication of any such last-mentioned notice shall be deemed final and conclusive evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed, have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the said Commissioners under any of the provisions hereinbefore contained, save only by such petition to the Court of Chancery or Exchequer as aforesaid.

39. As to expenses of preliminary proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be defrayed accordingly, and the sum of money (if any) deposited by or on behalf of the person by or on behalf of whom such memorial as aforesaid shall have been presented, shall be repaid to such person without deduction out of any

monies

monies which shall be raised by the said Commissioners under the provisions hereinafter contained; but if in any case the said Commissioners shall determine that it is inexpedient to drain or improve the land or navigation of the river referred to in any such memorial, or if the necessary assents hereinbefore required to be obtained shall not be given to the execution of the proposed works, then and in any such case all expenses which shall have been incurred shall be defrayed out of the sum of money which shall have been deposited with the said Commissioners under the provisions in that behalf hereinbefore contained; and if such sum of money shall be insufficient to pay such expenses, then the balance thereof shall be paid by the person who shall have presented such memorial as aforesaid, and the same shall be recoverable from such person by the said Commissioners by civil bill, or by action or suit in any of the Superior Courts in Dublin; and in all cases where a memorial shall have been presented by the Secretary by order or on behalf of the Grand Jury of any county, the said Commissioners shall transmit to the Secretary of such Grand Jury a certificate, specifying the amount of such expenses which shall have been incurred as aforesaid, and the same shall be paid out of the sum which shall have been deposited on behalf of such Grand Jury; and if such sum so deposited shall be insufficient to pay such expenses, then the balance thereof, as stated in such certificate, shall be presented by the Grand Jury at the next Assizes to be holden subsequent to the issuing of such certificate as aforesaid for the same county; and in default of such presentment being made at such Assizes, the Court at such Assizes or any subsequent Assizes, shall order such amount to be raised off such county, and such order shall have the force of a presentment, and the Treasurer of such county shall insert the amount specified in such order in his warrant, and the same shall be applotted, raised and levied as if the same had been duly presented, and shall be paid by the Treasurer of such county to such Commissioners; and in case the sum deposited with the said Commissioners by any such person, or by or on behalf of any Grand Jury as aforesaid, shall be more than sufficient to defray the expenses aforesaid, then the surplus shall be repaid to the person or to the Treasurer of the Grand Jury by whom or on whose behalf the same was deposited with the said Commissioners, and such Treasurer shall keep a separate account of the monies so returned to him as aforesaid.

40. After publication of notice, Commissioners may commence proposed works.

And be it Enacted, That at any time after the publication of any such final notice as hereinbefore mentioned, the said Commissioners may, in case it shall seem to them expedient, commence and proceed with the works proposed to be executed for the drainage or improvement of the land or navigation of the river to which such notice may relate.

41. Commissioners to appoint officers.

And be it Enacted, That it shall be lawful for the said Commissioners to appoint, employ and dismiss at pleasure, such engineers, surveyors, clerks, collectors, receivers or other necessary officers, and pay and allow out of the funds at their disposal under this Act to such engineers, surveyors, clerks, collectors, receivers and other officers, such yearly or other salary or wages as the said Commissioners shall think fit; and all and every the person or persons employed as aforesaid shall, when required so to do by the said Commissioners, render to them a true and perfect account of all monies which shall have been received and paid by them respectively by virtue of such employment, with proper vouchers for the same, and shall pay to the said Commissioners, or such person as they shall authorize to receive the same, all such sums as shall be due to the said Commissioners from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Commissioners; and in case any person who shall be so employed as aforesaid shall refuse or neglect to render such account and make such payment as aforesaid, or to deliver up such vouchers, books and writings to the said Commissioners, or to such person as they shall empower to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at Petty Sessions assembled, to inquire into the matter of such default in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any One or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the county, there to remain for any time not exceeding Twelve calendar Months, or until he shall have made a perfect account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Commissioners, which composition and agreement the said Commissioners are hereby empowered to make.

All officers to account.

42. Reservoirs and embankments to be made.

And be it Enacted, That it shall be lawful for the said Commissioners, at their discretion, and for the purposes of this Act, to make reservoirs or embankments with valves and cloughs to draw the water from or out of such reservoirs, and also cuts, acqueducts, feeders, byewashes, spill-waters, weirs, dams, banks, drains, sluices and other works for securing a supply of superabundant or flood waters to said reservoirs or embankments, or for leading the waters therefrom, with overfalls for allowing the escape of water, and for the protection, security, cleansing, repair and maintenance of such reservoir and other works, and also to provide and keep in repair, near each of the said reservoirs, a house with necessary accommodations for the residence of a person to superintend such reservoir and other works; and such person shall have full power and authority (subject nevertheless to the control of the said Commissioners)

sioners) to superintend and regulate the outlet of water from such reservoir, and all matters and works connected therewith; and it shall also be lawful for the said Commissioners to make any road or way in lieu of any existing road or way which it may be necessary to divert or occupy for the purpose of making any such reservoirs, embankments or works, and to make and maintain all such other roads or ways in, through, over or upon any land near to or adjoining any of the said reservoirs as they may find expedient for enabling them and their engineers, surveyors, agents, officers, workmen, servants and other persons in their employ, to have access to such reservoirs, embankments and works, or any of them, with or without cattle, carts or carriages.

43. Power to divert the surplus waters of rivers, &c. adjoining the reservoirs.

And be it Enacted, That it shall be lawful for the said Commissioners to make such feeders or channels, with such cut-waters, drains and other works as they shall deem proper, for collecting and conducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

44. Where reservoirs or embankments may be made for maintaining a constant supply of water to mills or factories, Commissioners may make same, with consent of proprietors of mills equal in the value of their working power to Two-thirds of the value of the working power of the mills affected by such reservoirs.

And be it Enacted, That for the purpose of maintaining a constant supply of water for mills or factories on any river or stream, or preventing sudden floods therein, it shall be lawful for the said Commissioners, with the assent of the proprietors of such mills or factories, the value of the working-water power of which shall be equal to Two-thirds of the value of the working water-power of the mills or factories which shall be then existing on such river or stream, and affected by the maintaining of such constant supply of water, to make reservoirs or embankments, and to impose a tax or rate on the whole of the mills and factories along said river or stream which shall be benefited thereby, or on such new mills or mill-sites as shall or may be formed thereon and benefited thereby, for the purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred, such benefit to be calculated by the said Commissioners upon each foot of fall of water which shall appertain to each such mill or factory; and the said Commissioners shall have such and the like power and authority to recover the amount of rate which shall be so fixed and determined by them as are by this Act given to them for the recovery of any other rate or charge imposed hereby; and it shall be lawful for the said Commissioners to borrow money, for the purpose of making such reservoirs or embankments as last aforesaid, upon the security of the taxes or rates which they are hereby empowered to impose

on such mills or factories as aforesaid: Provided always, That it shall not be lawful for the said Commissioners to make any such reservoir or embankment, or to take away, injure or prejudicially affect any land or lands for the purpose last aforesaid, without the consent for that purpose first had and obtained in writing of all persons having any estate or interest in such lands greater than a term of Seven Years then unexpired: Provided also, That in each case, before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publication of such final notice as aforesaid, in cases where drainage or improvement by drainage is proposed to be affected, or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed; and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, published and posted in such manner as the final notice hereinbefore mentioned, which shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given shall and may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

45. In cases of reservoirs, &c. who shall be deemed proprietors of mills or factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, each person shall be deemed a proprietor of any such mill or factory, as last aforesaid, who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any land proposed to be drained or improved by drainage under the provisions of this Act.

46. Weirs may be altered or removed, making compensation to the owners thereof.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time at their discretion, to alter or remove any fishing weir erected in or upon any stream of water or any impediments whatsoever in or on any river, stream or watercourse, which now or hereafter shall be within the district within which it may be proposed that the said works shall be executed (subject, as regards weirs or dams of mills or factories, to the provisions herein contained), making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs, rivers, streams or watercourse, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned in case the said Commissioners shall not be able to come to an agreement for same with such proprietors or persons.

47. In all cases Commissioners shall have power to remove or alter dams, if the proprietors thereof consent in writing to such removal and alteration.

And be it Enacted, That in all cases it shall be lawful for the said Commissioners to take, remove or alter any mill or factory, dam, weir, or other obstructions connected with any mill or factory, with the consent of the owner or owners thereof, and parties interested therein, signified in writing, to such taking, removal or alteration.

48. Power to remove or alter mills, dams, &c. where necessary for navigation.

And be it Enacted, That in all cases where a navigation is proposed to be created or improved in conjunction with drainage, and it shall be necessary for the purpose of such navigation to remove or alter any mill, factory, dam, weir, sluices or other appurtenances belonging to any mill or factory, it shall be lawful for the said Commissioners to remove or alter same, on payment or tender to the occupier or occupiers, proprietor or proprietors thereof, of such sum for the purchase thereof, or as a compensation for the injury thereto, and in such proportions respectively as shall be awarded by the said Commissioners, or shall be determined by the Assistant Barrister or a Jury on an appeal, as hereinafter provided.

49. Power to Commissioners, in case the mill-power be improved with owner's consent, to rate the mill-owner towards the expenses of the works.

And be it Enacted, That in case the proprietor of any mill or factory shall consent that any dam, weir or watercourse or other work or obstruction connected with such mill or factory, shall, for the purpose of drainage to be effected under this Act, or for the improvement of the water-power of the said mill or factory, be altered and re-built, or that such mill or factory shall thereby or by means of any reservoir obtain any increased water-power, it shall be lawful for the said Commissioners to fix and determine the amount of rate or contribution which shall be paid by the proprietor of such mill or factory for the improvement which shall be so effected, towards the repayment of the costs and expenses of the works to be executed within the district within which such mill or factory is situate, and the rate which shall be paid in future for such increased water-power from such reservoir ; and the said Commissioners shall have such and the like powers and authorities to recover the amount of rate which shall be so fixed and determined as are given to them by this Act for the recovery of any other rates or charges imposed hereby.

50. Any improvement made in the dams to mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That in all cases in which, in the progress of the execution of any work under the provisions of this Act, any mill or factory shall be stopped from working, and compensation shall be awarded for any injury resulting therefrom, it shall be lawful for the said Commissioners, or the Assistant Barrister or Jury, in case of appeal under the provision hereinafter contained for the adjustment of claims for compensation, to set off against the same the value of any benefit resulting from any improvement which shall be effected

by the execution of such works, in the water-power of, or constancy of supply of water to, such mill or factory, or by the relief from back-water afforded to it.

51. Commissioners may appoint persons to open floodgates, &c.

And be it Enacted, That the Commissioners or Trustees hereinafter mentioned may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, stream or drain which shall be improved or made under the provisions of this Act, appoint a proper person for the regulation, opening and closing of any floodgates, sluices, stopgates or stops of any weir, dam or other work connected with any mill or factory which may have been in any respect interfered with by the said Commissioners or Trustees, or of any weir, dam or other work which may be under the care or control of the said Commissioners or Trustees, or vested in or erected by them, or either of them, under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close the same for the purposes aforesaid, subject nevertheless to the control, orders and directions of the said Commissioners or Trustees, as the case may me; and all expenses of maintaining same and the sills and gauges hereinbefore directed to be erected, and of remunerating said person employed to regulate same, shall, save as hereinafter provided, be defrayed by the said Commissioners or Trustees respectively out of the funds and rates which shall be levied under the provisions of this Act.

52. Owners or occupiers not to be exonerated from making such repairs as were

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or mill-site, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, stream or watercourse, or to maintain any dam or sluice or floodgate, or any engine, contrivance or other work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever, as he may or would have been respectively subject or liable to if this Act had not been made.

53. Remedy by summary application to the Court of Chancery or Exchequer in the event of Commissioners failing to secure the due amount of water-power to the owner of mill or factory.

And be it Enacted, That any person interested in any mill or factory affected or proposed to be affected by any thing to be done under the provisions of this Act, may apply, by petition, in a summary way to the Court of Chancery or Exchequer, complaining that the due amount of water-power has not been properly secured to or for such mill or factory, or that any act has been done, or has been threatened or proposed to be done, by the said Commissioners, or by any person acting or pretending to act under the provisions of this Act, by which injury has been or may be sustained by such mill or factory, or by such person so interested in respect thereof, and

and which act may not be authorized by this Act; and thereupon such Court shall make such order and direct such proceedings, whether before one of the Masters or the Chief or Second Remembrancer of such Court respectively, or by directing any issue or issues to be tried before a Judge and Jury at the Assizes, or before the Assistant Barrister and a Jury, at the Quarter Sessions, or otherwise, as such Court may order; and thereupon it shall be lawful for such Court to direct such works to be made by such Commissioners as to such Court of Chancery or Exchequer shall seem necessary or proper; and to make, from time to time, such further or other order, whether for compensation to any party interested in such mill or factory, or for restraining the Commissioners or any other person from doing any act or otherwise, as to such Court shall seem just, and to issue any writ or writs of injunction for any of the purposes aforesaid for which the same may be required; and such Court shall have power to award costs to either party: Provided always, That such petition shall be presented within Six Months after the subject-matter of such complaint shall have arisen.

54. Power to execute works.

And be it Enacted, That it shall be lawful for the said Commissioners to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, to make and execute all such works as shall be described in the maps, plans and sections hereinbefore mentioned, or such deviations therefrom, or such other works as they shall deem necessary for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any land whatsoever, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, drain, brook, pool or watercourse running through such land, and to make, open and cut in or upon the same any new watercourse side-cut, ditch or drain, and to alter or remove any bank, sluice, floodgate, lock, drain or tunnel, and to make or erect any wharf, landing-place, pier, quay, harbour, bank, sluice, floodgate, lock, lock-house or other building, drain, tunnel, towing-path or other works necessary for drainage or improvement of the navigation, and to dam, bar and stop up, with any weir or dam, any river, brook, pool, stream or watercourse, and also to make upon such land any embankment against the sea, or any lake, river, stream or watercourse, and to put and place on such land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such land, or for the better conveying the waters from the said land into the sea, or into any river, lake, stream or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river, lake, stream or watercourse, for the purpose of supplying water to any mill or factory, or to any site proper for the erection of a mill or factory thereon, or of keeping back a sufficiency of water for the use of cattle, or for the irrigation or warping of lands where such irrigation

or warping shall be wanted, and shall be a beneficial manurance to such lands, and also to stop up or divert any road, or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, water-course or side-cut now existing or to be made as aforesaid, and also to do all such things, and erect such steam and other engines, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

55. Commissioners may enter lands and dig for materials, on making compensation.

And be it Enacted, That it shall be lawful for the said Commissioners, or any engineer, workman or other person authorized by them, after Three Days' previous notice, to enter into, and to search for, dig, take and carry away materials out of any land lying within or contiguous to the land or river proposed to be drained or improved, for the purpose of executing or repairing any works under the provisions of this Act, making such compensation for the surface damage done to the proprietors, lessees or occupiers of such lands, according to their respective interests therein, as to the said Commissioners shall seem fit and reasonable; and in case of dispute, such compensation shall be settled on a summons, to be issued for that purpose, by any Two or more Justices of the Peace for the county in which such land is situate, at petty sessions: Provided always, That in all cases where materials shall be taken from an open quarry bonâ fide demised to any person, with liberty to raise, sell and dispose of the materials therein, the value of such materials shall be paid for by the said Commissioners, and the amount owing, in the event of difference as to the same, shall be settled on summons by any Two or more Justices as aforesaid.

56. Commissioners to fill up holes and pits not found useful, and fence off those that may be useful.

And be it Enacted, That if by reason of the searching for, digging or getting any materials as aforesaid, any pit or hole be made in any common or other land wherein such materials shall be found, the said Commissioners shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be used, and shall within Six Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioners shall cause the same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

57. Power to Commissioners to make drains through land not proposed to be drained, compensation being made for damage done.

And be it Enacted, That if it shall be necessary for improving the outfall of any land, or for the purpose of carrying off water from any land to be drained, or from any drain to be made, scoured out or enlarged under the authority of this Act, to scour out, widen or enlarge any river or drain, or to make any drain, culvert or tunnel through any land not included in such district as aforesaid, it shall be lawful for the said Commissioners to enter upon said land, and to scour out, widen, straighten or enlarge such river or drain, or to make such drain, culvert or tunnel, due compensation being made by the said Commissioners for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained.

58. Commissioners authorized to enforce the cleansing of drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse, river or rivulet lying below or between or in any land authorized to be drained by virtue of this Act, or the outfall thereof, the said Commissioners may require such person to scour out and cleanse the same; and in case such person shall neglect, within Fourteen Days after notice in writing given to him or to the tenant of the land in respect of which such liability exists, or left at the usual abode of such person or tenant, to cleanse any such drain, sewer, watercourse, river or rivulet, to the full and proper width and depth, the said Commissioners may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of such person or tenant, together with the charges attending such distress and sale.

59. Any party whose lands may be injured by the neglect to maintain the banks or scour the channels of existing drains, streams or rivulets, may, upon service of notice upon parties who shall neglect to scour or maintain same, proceed therewith and recover a proportion of expense from such neglecting parties, by civil bill.

AND whereas by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks, and cleanse and scour the channels of existing drains, streams or rivulets lying in or forming the boundaries of or leading to the outfall from such lands, much injury is done thereto and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where, by reason of the neglect of any such proprietor or occupier to maintain the banks, or cleanse and scour the channels of existing drains, streams or rivulets, lying in or bounding the lands of such proprietor or occupier, injury shall be caused, it shall be lawful for the proprietor or occupier of any land injured thereby, to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing, delivered to him or left at his usual place of abode, to join in the effectual maintaining such banks, or in the cleansing and scouring of the channels of such drains, streams or rivulets;

rivulets; and in case he shall refuse effectually so to do, it shall be lawful for the proprietor or occupier of the land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to proceed with the maintaining and repairing of such banks, or the cleansing and scouring of such channels as aforesaid, and to sue for and recover from such neglecting proprietor and occupier the entire or such just proportion of the expenses attendant thereon as he may be liable to, by civil bill, before the Assistant Barrister of the county wherein such drain, stream or rivulet, or the part thereof which shall be cleansed and scoured shall be, and as may be fixed and determined by such Assistant Barrister, who shall have power to fix and determine the same, and to award, in addition to the usual costs, such further costs to be paid by such party, and in such manner as to him shall seem reasonable: Provided always, That in all such cases when such drain, stream or rivulet shall not be a boundary between the adjoining lands of such proprietors or occupiers as aforesaid, it shall not be lawful for any such proprietor or occupier to proceed to maintain and repair the banks, or cleanse and scour the channel of such drains, stream or rivulet as last aforesaid, without a warrant or authority in writing so to do from Two or more Justices assembled in Petty Sessions for the county or counties wherein such drain, stream or rivulet, or the greater part thereof, shall be situate, and which warrant or authority such Justices shall grant, if, upon inquiry had before them, upon a summons to be served upon the proprietors or occupiers of the lands in which such drain, stream or rivulet shall be, and who shall have neglected to cleanse or scour the channels, or maintain the banks of same, it shall be proved that the neglect so to do causes such injury or prevents such improvement.

60. If cuts be made, which shall injure roads or bridges, Commissioners to make roadways and bridges.

And be it Enacted, That if by any cut, drain or other works made under the authority of this Act, any road or way shall be disturbed or interrupted, or any land intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioners shall, if the same shall appear to them necessary, cause other convenient roads or ways to be made, and any bridges which may be required, to be properly built for the use of the persons entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges, out of the monies to be received by virtue of this Act: Provided always, That it shall be lawful for the said Commissioners, if they shall think fit, to contract and agree with the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties, or any of them, and to pay the sum contracted and agreed to

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be paid out of the monies to be received by virtue of this Act: Provided always, that in case the said Commissioners shall be able to agree with the persons interested in such roads, ways or bridges, for compensation in respect of the damage occasioned in relation to the same, it shall be lawful for them so to do.

61. Where existing bridges, culverts or archways are insufficient for the discharge of water under a public or county road, same may be re-constructed by the Commissioners.

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public or county road shall, in the opinion of the said Commissioners, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause or tend to cause the flooding of or other injury to any of the land to be drained or improved by the proposed works, or where, by means of any of such works, any public or county road shall be relieved from periodical flooding, it shall be lawful for the said Commissioners to have the same reconstructed in such manner as to them shall appear sufficient, and to determine, by a declaration in writing under their hands and seals, the proportions of the expenses of such reconstruction or relief from flooding, which shall be defrayed by the county or counties respectively, or any barony or half barony of such county or counties within which such bridge, culvert, archway or road, or any part thereof, may be situated; and a duplicate of such declaration, under the hands and seals of such Commissioners, shall, within One Month from the date thereof, be transmitted to the Secretary of the Grand Jury of each such county; and such declaration shall be published in Three successive impressions of some newspaper circulating in such county thereby made chargeable with any part of such expenses, and shall be posted at the usual places of posting Grand Jury notices in the barony or half barony in which such bridge, culvert, archway or road, or any part thereof, shall be situate, such publication and posting to be made within One Fortnight after the date of such declaration; and it shall be lawful for any person paying Grand Jury cess for such county, barony or half barony, to traverse such declaration at the Assizes which shall be holden for such county, not less than Thirty Days after such declaration shall be transmitted to such Secretary, as if the same were a presentment for damages made under any Act or Acts in force relating to the presenting of public money by Grand Juries in Ireland; and such reduced sum, if any, as shall be found upon such traverse, shall be inserted in such declaration by the Court before which such traverse shall be tried; and the Grand Jury of such county is hereby empowered and required at such Assizes (and without application to Presentment Sessions) to present the sum or sums of money mentioned in such declaration (whether as originally made, or as altered upon such traverse, as the case shall be), to be levied off the said county, barony or half barony; and in case such Grand Jury shall refuse to present the sum so mentioned

tioned in such declaration, or which shall be found by and upon such traverse, the Court shall make an order directing that the Treasurer for such county shall insert such sum in his warrant, and the same shall be levied off such county in the same manner as if the same had been duly presented by such Grand Jury ; and thenceforth such bridges, culverts, archways and roads shall be repaired and maintained by such county or counties as were theretofore liable to repair and maintain the same.

62. Commissioners to provide in dams and weirs for the migration of salmon, trout and eels.

And be it Enacted, That in the construction, alteration or re-modelling of any dams, weirs or other works in the bed of any river to be improved under this Act, it shall and may be lawful for the said Commissioners, whenever they shall deem the same necessary, so to construct, alter or re-model the same as to provide sufficient means in some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

63. Works not to injure any ornamental water, nor the supply of water to towns.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to interfere with ornamental water in any private demesne or park, without the previous consent in writing of the owner or occupier thereof, or of his guardian or committee, in case of infancy or lunacy, nor to curtail or cut off the supply of water to any town without previously making adequate provision in lieu thereof.

64. Nor to encroach upon parks, demesnes or inclosed gardens.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to encroach, by their works or otherwise, upon any park, garden or demesne, without the consent in writing of the owner thereof.

65. When lands cut through shall be less than an acre in quantity, or less than Fifteen yards wide, Commissioners to purchase the whole if required.

And be it Enacted, That if, in the execution of any of the works authorized by this Act, any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property, so that there shall be left on each or either side of the said works, or any of them, less than One statute Acre in quantity, or less than Fifteen Yards in breadth, then and in every such case the said Commissioners shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided) take and purchase such piece or parcel or pieces or parcels, so to be left as aforesaid, of such field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

66. Commissioners may purchase land.

And be it Enacted, That it shall be lawful for the said Commissioners to purchase any land which they shall think it necessary or proper

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to purchase for accomplishing any of the purposes of this Act, making such reasonable satisfaction and recompense to the person entitled to or interested in such land as shall be settled and ascertained in manner hereinafter mentioned.

67. Notices to be given to proprietors of land required for or likely to be affected by the proposed works, requiring them to furnish to Commissioners their claims.

And be it Enacted, That the said Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors or occupiers, or reputed proprietors or occupiers, and all persons interested, where the same may be known to the Commissioners, of and in all such land, as may be required to be taken for, or be liable to be injuriously affected by, the works proposed to be made under this Act, requiring such proprietors, occupiers or other persons to prefer their respective claims before such Commissioners for the value of such land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which such Commissioners shall hold a meeting for inquiring into all such claims, and shall also, Thirty Days at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in Three successive publications of some newspaper circulating in the county or counties in which such land as aforesaid shall be situated, and to be printed and posted at each place for posting Grand Jury notices in each barony in which any part of same shall be situate.

68. Corporations, trustees and other persons empowered to sell and convey, &c.

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feoffee in trust for charitable or other purposes, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, femme coverte, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant for life or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any land required to be purchased for any of the purposes of this Act, or injuriously affected by any such works as aforesaid, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue

of such ward, wife or person respectively, and to and for any femme coverte entitled in her own right to any such land, or to dower or other interest therein, on behalf, not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife, person or femme coverte respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and femme coverte, on behalf of the person or persons on behalf of whom such ward, wife, person or femme coverte respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same land, and to and for every other person whomsoever, who is or shall be seised or possessed of or interested in any such land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the said Commissioners, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange as shall be determined by the said Commissioners, and also to execute any conveyance, or enter into any contract with respect to the premises which the said Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable by the said Commissioners in respect thereof shall be paid by the said Commissioners out of the monies to be raised by virtue of this Act, as hereinafter mentioned.

69. Form of Conveyance.

And be it Enacted, That all conveyances which shall be executed to the said Commissioners, of any land which shall be required by them for any of the purposes of this Act, shall be in the following form, or as near thereto as the number of parties and the nature of the case will admit; namely,

"I, of in in consideration of the sum of paid to [*or*, paid into the Bank of Ireland, *as the case may be*], by the Commissioners appointed under an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled, [*here set forth the title of this Act*], do hereby grant and release to the said Commissioners, all [*describing the premises*], together with all ways, rights and appurtenances thereunto belonging, and all estates, rights and interests in the same, and every part thereof: To hold to the said Commissioners and their successors for ever, according to the true intent and meaning of said Act. In witness whereof, I have hereunto set my hand and seal, on this day of in the year of our Lord One thousand eight hundred ."

And

70. Satisfaction to be made, and may be accepted.

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such land as aforesaid, and any other owner of any such land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant for a year, or from year to year, or at will, or other occupier of any land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said party interested in such land, or sustaining such injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

71. Commissioners empowered to assess the value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such land as aforesaid, shall neglect or refuse to treat, or shall not agree with the said Commissioners, or, by reason of absence or disability, cannot agree or cannot be found or known, or shall not prove a clear title to the land or the estate or interest which he shall claim therein, to the satisfaction of the said Commissioners, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction or recompense for the same as shall be offered by the said Commissioners, for the space of Thirty Days after notice in writing given to the principal officer or officers of such corporation, or to such trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, then in every such case the said Commissioners are hereby empowered, at a time and place to be specified in such notice as last aforesaid, to inquire and examine and assess and award the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the land named or described in such award, or any land held in conjunction therewith; and the said Commissioners shall award such purchase-money or recompense so to be assessed; and the said Commissioners shall and may in such award name or describe the persons (if known to the said Commissioners) to whom respectively the sum mentioned

 therein

therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than one, and the land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the land named and described in such award, or any land held under the same lease or instrument in conjunction therewith; and the said Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly; and such award shall be conclusive and binding upon The Queen's most Excellent Majesty and all other persons interested, except in the case and subject to the provisions hereinafter contained.

72. Any person dissatisfied with the adjudication of the Commissioners may appeal to the Assistant Barrister at Quarter Sesssion.

Provided always, and be it Enacted, That if any person interested or claiming to be interested in any land which may be made the subject of any such award as aforesaid shall be dissatisfied therewith, either as respects the amount of the value or the compensation awarded in respect thereof, or of any abatement to be made in any rent, or as respects the persons to whom or the proportions in which such value or compensation is to be paid or abatement made, it shall be lawful for such dissatisfied person to appeal to the Quarter Sessions which shall be held next after any such award shall have been made and settled as aforesaid, for the division of the county wherein such land shall be wholly or in part situate (provided same shall not be held sooner than Thirty-one Days after the making of such award), the party appealing, if there be sufficient time after such award, having first given to the said Commissioners Twenty-one Days' notice at least of his intention of bringing such appeal, and of the matter thereof; and if there shall not be Thirty-one Days between the making of such award and the day appointed for holding such Sessions, then such appeal may be made at the second Quarter Sessions which shall be holden for such division of such county after such award; and the Assistant Barrister at such first or second Quarter Sessions, or any adjournment thereof, upon due proof of such notice having been given, is hereby empowered and required to hear and finally determine the matter of such appeal, either by or without the verdict of a Jury, as the party appealing shall require, and may order such sum to be paid for the costs thereof to be paid wholly or in part by either of the parties thereto, and may, by warrant under his hand, direct such costs so awarded to be levied by distress and sale of the goods and chattels of the party or parties who shall refuse or neglect to pay the same: Provided always, That if no notice of appeal shall be served on the said

said Commissioners within Fourteen Days next after their award shall be made, the same shall be final, binding and conclusive upon all persons and to all intents and purposes whatsoever.

73. Jurors to be summoned

And be it Enacted, That if, in any notice of appeal to be served on said Commissioners as aforesaid, the party appealing shall require a Jury to be summoned for determining the matter of such appeal, then and in every such case the said Commissioners shall issue their warrant, under their hands and seals, to the Sheriff of the county where such appeal is to be heard, commanding such Sheriff to impanel, summon and return a Jury, and such party shall also serve a copy of such notice of appeal on such Sheriff; and the said Sheriff to whom the said warrant shall be directed or such notice given is hereby required accordingly to impanel, summon and return a Jury of Twenty-four men qualified according to law to be returned for trials of issues joined in Her Majesty's Courts in Dublin, to appear before the said Assistant Barrister at such time and place as in such warrant or warrants shall be appointed, not being less than Fourteen Days after such warrant shall be served upon the said Sheriff, upon pain to forfeit for every default in not making such return Five Pounds, to be sued for and recovered in the manner hereinafter directed, and also to return in issues upon every person so impanelled and returned, who, contrary to the true intent and meaning of this Act, shall not appear, the sum of Forty Shillings, which shall be levied by distress and sale of the goods and chattels of the person not appearing as aforesaid, by warrant under the hand and seal of the said Assistant Barrister; and in case a sufficient number of jurymen shall not appear at such time and place, the said Sheriff shall return other honest and indifferent men that can speedily be procured to attend that service, being qualified as aforesaid, to make up the said Jury to the number of Twelve, and all parties concerned shall and may have their lawful challenges against any of the said jurymen; and the said Assistant Barrister is hereby empowered, by warrant under his hand and seal, from time to time, as occasion shall require, to summon and call before him all and every such person and persons as shall be thought necessary to be examined as witnesses touching the matters in question; and the Assistant Barrister may order and authorize the said Jury or any Six or more of them, to view the place or matter in question, which Jury (upon their oaths, to be administered by the said Assistant Barrister, which oaths, as also the oaths to such person or person as shall be called upon to give evidence, the said Assistant Barrister is hereby empowered to administer) shall inquire of, assess and ascertain the sum of money to be paid for the purchase of such land, or the recompense or satisfaction to be made for damages that may or shall be sustained as aforesaid, and what abatements (if any) are to be made to any tenant or occupier of such land, and to settle and ascertain in what proportions the sum so assessed shall be paid to the several persons interested in the premises.

Jurors may be challenged.

74. Judgments of Assistant Barristers to be binding on all parties.

And be it Enacted, That in all such cases of appeal as last aforesaid, the said Assistant Barrister shall give judgment for such purchase-monies or recompense, whether same shall have been assessed and ascertained by such Juries, or finally determined by such Assistant Barrister; and the verdicts of such Juries, and the judgments thereon, and the judgments of said Assistant Barrister, where no such verdicts shall be given, shall be final, binding and conclusive to all intents and purposes against all parties, corporations and persons whomsoever.

75. Juryman refusing to be sworn or give verdict to forfeit a sum not exceeding 40 s.

And be it Enacted, That if any person summoned as a juryman as aforesaid shall, after his appearance, refuse to be sworn, or, being so sworn, refuse to give or not give his verdict, or in any other manner wilfully neglect his duty in the premises, contrary to the true intent and meaning of this Act, every person so offending, having no reasonable excuse, to be allowed by the said Assistant Barrister, shall for every such offence forfeit and pay any sum not exceeding the sum of Forty Shillings, to be levied on the goods and chattels of the person so offending, by warrant under the hand and seal of the said Assistant Barrister, by distress and sale of the offender's goods, rendering the overplus to the owner thereof, after such penalty and the charges of such distress and sale are deducted.

76. Awards, verdicts and judgments to be recorded.

And be it Enacted, That such of the aforesaid awards of the said Commissioners as shall not be appealed from, and the judgments and verdicts so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the counties in which the land in respect of which such awards, judgments or verdicts shall have been respectively made shall be situate, and shall be deposited with the records, and deemed records of such counties respectively to all intents and purposes; and the same, or certified copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of Sixpence, or to have copies thereof, paying for every copy the sum of Three halfpence for every Seventy-two words, and so in proportion for any greater or less number of words.

77. Application of compensation money when amounting to or exceeding £. 200.

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any land which shall belong to any corporation, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any femme coverte, infant, idiot or lunatic, or to a tenant for life, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same land otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of Ireland in the name

name and with the privity of the Accountant General of the Court of Chancery or Exchequer, to be placed to his account there, ex-parte the Commissioners for executing this Act, setting forth the title hereof, and without fee or reward, and shall, when so paid in, there remain until the same shall by order of the said Court, made upon a petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said land, be applied in or towards the discharge of any such debt or other incumbrance affecting the same land, or any other land or property standing settled therewith, to the same or the like uses, trusts, intents and purposes as the said Court of Chancery or Exchequer shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall upon the like application in a summary way be laid out by order of the said Court in the purchase of other land, which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner, as the land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing, undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of Ireland; and in the meantime and until the said stocks, funds or annuities shall be sold by order of the said court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such land so to be purchased, conveyed and settled.

78. When less than £. 200, and amounting to or exceeding £. 20.

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation, or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of Ireland in the name and with the privity of the said Accountant General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid, at the like option and with the like approbation, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the land so to be purchased, taken or used, or damaged or

injured as aforesaid, such nomination to be approved of by the said Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of Ireland, without being required to obtain any order of the Court of Chancery or Exchequer touching the application thereof.

79. When less than £.20

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid, as hereinbefore mentioned, shall be less than Twenty Pounds, then and in every such case the same shall be paid to the person who would for the time being have been entitled to the rents and profits of the land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or, in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

80. The Court may order reasonable expenses of purchasers to be paid by the Commissioners.

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of Ireland, to be applied in the purchase of other land to be settled to the like uses in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said Commissioners out of the monies to be received by virtue of this Act; and the said Commissioners shall from time to time pay such sums of money for such purposes as the said Court shall direct.

81. Premises to vest in the Commissioners, upon payment into Bank of the money agreed upon or assessed, when conveyances cannot be obtained.

And be it Enacted, That if any corporation or person seised or possessed of, or having any estate or interest in, any such land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such land to the satisfaction of the said Commissioners, or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the said Commissioners to pay such sum of money as shall have been contracted and agreed or shall have been adjudged in manner aforesaid to be paid for the purchase or for the value of such land into the Bank of Ireland, in the name and with the privity of the Accountant General of the said Court of Chancery or Exchequer, to be placed to his account to the credit of the party interested

in

in the said land (describing such land), or if such party shall not be known, then to the credit of the then unknown person interested in the said land (describing the same), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation or person making claim to such sum of money, or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the same Court shall seem fit, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of Ireland, who shall receive such sum of money, is hereby required to give a receipt for such sum of money, and upon payment of such sum of money into the Bank as lastly hereinbefore is mentioned, the land for the purchase or for the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the absolute interest therein, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand, in law and equity, of the corporation or person, or unknown person, to whose credit such money shall be paid in, to and out of the land, shall vest in the said Commissioners, and they shall be deemed in law to be in the actual seisin or possession thereof to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such land had actually conveyed the same; and such payments shall not only bar all right, title, interest, claim and demand of the corporation or person, or unknown person, of, in or to the same land, to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of such person, and all estates tail and other estates in possession, reversion, remainder, expectancy or contingency, and the issue of such person and every other person whomsoever.

82. In case of questionable title of persons in possession.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of Ireland in the name and with the privity of the Accountant General of the said Court of Chancery or Exchequer, in pursuance of this Act, for the purchase of any land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government or Real Securities, the person who shall have been in possession of such land at the time of such purchase, and all persons claiming under such person, or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such land, until the contrary shall be shown to the satisfaction of the said Court; and the dividends or interest of the Bank Annuities or Government;

ment or Real Securities to be purchased with such money, and also the capital of such Bank Annuities or Government or Real Securities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such land, or to some estate therein.

83. Estate of mortgagees to vest in Commissioners on payment of principal and interest;

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any land taken or purchased under this Act, then on payment of the principal and interest due thereon, or in case a part only of any land subject to such charge or mortgage be so taken or purchased, then a proportionate share of such principal and interest (to be ascertained in case of dispute in the manner hereinbefore provided for ascertaining the value of land taken or purchased for the purposes of this Act) to such mortgagee or person entitled thereto, or into the Bank of Ireland for the use of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, in the land or the portion of land so taken or purchased, shall vest in the Commissioners, and they shall be deemed to be in the actual possession thereof, free from the same mortgage or charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any land purchased or taken under this Act shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged in the land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him, in the said land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Commissioners, and they shall be deemed to be in the actual possession of the said lands to all intents and purposes whatsoever, freed from such mortgage or charge as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same land, or portion of land.

or if such principal and interest exceed the value of the property, then on payment of the value.

84. Lien shall remain on premises not conveyed in proportions.

And be it Enacted, That when any rent, or any such charge, incumbrance or lien as aforesaid shall also be payable out of, or extend over and be a charge, incumbrance or lien on, any lands other than those which shall be taken or injured by or conveyed to or vested in the said Commissioners, then and in such case neither this Act nor any conveyance so made as aforesaid shall in any respect discharge, affect or alter the force, validity or effect of such charge, rent, incumbrance or lien, so far as relates to such other lands, tenements or hereditaments, but that as to all such the same shall respectively continue, be good, valid

valid and subsisting, subject, nevertheless, to such reduction of rent (if any) as may be made in respect of such lands under the provisions herein contained.

85. Power to enter and take possession of land, &c. on payment or tender of purchase-money.

And be it Enacted, That upon payment into the Bank of Ireland, as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or adjudged in manner aforesaid, for the purchase of any land, or as a recompense for the yearly produce or profits thereof, or as a compensation for damages as herein mentioned to the proprietor of such land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the said Commissioners, or their agents, workmen or servants, immediately to enter upon and use such land.

86. Commissioners may forego the taking of any land on serving a notice, within Six Months from the time of contract or adjudication, that same will not be required.

Provided always, and be it Enacted, That if it shall seem expedient to the said Commissioners at any time or times, within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act not to take or injure the whole or any part of any land, or other matters or things named or described in such adjudication or contract, it shall be lawful for the said Commissioners to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contracts to be interested in such land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the said Commissioners) shall be utterly void and of none effect, to all intents and purposes whatsoever; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall fix and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and, if necessary, apportion the residue among the persons entitled thereto; and the said Commissioners shall amend such adjudication or contract accordingly; and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal, as any other adjudication or contract under this Act: Provided always, That in all cases where the Commissioners shall serve notice that it is not intended to take or injure the whole nor any part of such land, the person or persons interested in such land, and incurring any loss or expense in consequence of the Commissioners having previously required the same, shall be entitled to compensation for such loss and expenses, and in case the amount thereof cannot be agreed upon, the same shall be ascertained and

taxed by the Assistant Barrister of the county in which such land shall be situate.

87. If the Commissioners make any new site for a mill or factory.

And be it Enacted, That whenever, in executing any of the proposed works, the said Commissioners shall be enabled to make any new site for a mill or factory, such new site may be made by the said Commissioners if they shall think fit, and the same with the water power thereof shall be absolutely vested in the said Commissioners and their successors for ever, in trust for the purposes of this Act, and in order that the same may be sold: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory.

88. Commissioners to sell lands and mills, making first offers to the proprietors of the estate.

And be it Enacted, That the said Commissioners shall, from time to time, sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, watercourses and mill-sites, which shall become vested in them under any of the provisions aforesaid, and which shall not be required to be retained for any of the purposes of this Act; and the produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed in the district in which such lands so sold or disposed of shall be situate: Provided always, That the said Commissioners, before they shall sell or dispose of any of the premises aforesaid, shall first offer the same to the person to whose estate the same originally belonged, and then to the person whose estate shall adjoin thereto, and such premises shall not be sold to any other person at such price as the persons so entitled to a preference shall be willing to give for them or at any lower price; and if each such person shall refuse to purchase the same, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in said Court, that such offer was made by or on behalf of said Commissioners, and that such offer was refused by the person to whom the same was made, such affidavit shall, in all courts whatsoever, be sufficient evidence and proof that such offer was made and refused.

89. Application of monies received by the Commissioners.

And be it Enacted, That all sums received by the said Commissioners under the provisions of this Act (except for or in respect of the tolls or rates for navigation) shall be paid into the Bank of Ireland to the credit of the said Commissioners, and shall be applied towards the expenses of the several works for drainage, navigation or water-power to be executed under this Act, or towards the repayment of any loan or loans which shall have been or may be made to the said Commissioners for the execution of the said works under the power in that behalf

behalf hereinafter contained, and of all other expenses payable by the said Commissioners under the provisions of this Act.

90. Powers to Commissioners to take Tolls.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time and at all times hereafter, to demand, receive, levy and take for or in respect of any river which shall be rendered navigable, or the navigation whereof shall be improved under or by virtue of the provisions of this Act, and also for wharfage or quayage at any pier, harbour, landing-place, quay or wharf, to be built, erected or made by the said Commissioners, or vested in them under the provisions of this Act, such rates or tolls as the said Commissioners, with the approbation of the said Commissioners of Her Majesty's Treasury, shall think fit; and it shall be lawul for the said Commissioners to fix the time or times respectively from and after which such rates or tolls shall be payable.

91. Limitation of Tolls.

Provided always, and be it Enacted, That any boat or vessel charged with a tonnage-rate shall not in any event be liable to pay in respect of any voyage a greater amount of toll, exclusive of quayage or wharfage, than Two Shillings and Sixpence per ton; and that any boat or vessel charged with a rate per boat or boat load, shall not in any event be liable to pay, in respect of any one voyage, a greater amount of toll, exclusive of quayage or wharfage, than Eight Shillings per boat or boat load: Provided also, That no toll or rate whatever, except wharfage or quayage, shall be rated, levied or imposed by the said Commissioners under this Act, upon steam-vessels employed in towing boats or barges, and not carrying at the same time goods or passengers.

92. Tolls may be raised or lowered.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, as they shall think fit, with the approbation of the said Commissioners of the Treasury, to reduce all or any of the rates or tolls by this Act authorized to be taken, and afterwards, from time to time, with the like approbation, to raise the same or any of them to any amount not exceeding the amount hereinbefore specified: Provided also, That if such rates or tolls shall have been let or demised by the said Commissioners, no alteration shall be made therein during the continuance of such lease or demise, unless with the consent in writing of the tenant or lessee.

93. If disputes should arise about the amount of tolls, the collectors may weigh the goods.

And be it Enacted, That if any dispute or difference shall arise between the collectors of the rates or tolls made payable by this Act, and the owner, master or person having charge of any boat, barge or other vessel, or the owner of any goods, wares and merchandize or other things chargeable with or liable to the payment of any of the said rates or tolls, concerning the weight or quantity of the same, it shall

shall be lawful for such collector to stop and detain any such boat, barge or other vessel, and to weigh, measure or gauge, or cause to be measured, weighed or gauged, all such goods, wares and merchandize or other things as shall be in any vessel where and when any dispute shall arise; and in case any such goods, wares and merchandize or other things shall, upon such weighing, measuring or gauging, appear to be of as much weight, measure or quantity as, or of greater quantity than, such collector did insist and affirm the same to be before the weighing, measuring or gauging thereof, so as to make the same chargeable with or liable to the payment of as much money as, or more money than, was demanded by the collector before the weighing, measuring or gauging of such goods, wares and merchandize or other things, then and in such case the master or owner of such boat, barge or other vessel, or the owner of such goods, wares and merchandize so weighed or measured or gauged, shall pay the costs and charges of such weighing, measuring or gauging thereof, all which said costs and charges, upon refusal of payment thereof on demand, shall and may be recovered as the rates and tolls made payable in and by this Act are appointed to be recovered; but in case such goods, wares and merchandize or other things shall upon such weighing, measuring or gauging appear to be of no greater weight or quantity than the master or owner declared the same to be before the weighing, measuring or gauging thereof, then and in such case such collector shall pay the costs and charges of such weighing, measuring or gauging, and shall also pay to the master or person having charge of such boat, barge or other vessel, or to the owner of such goods, wares and merchandize, a sum not exceeding Two Shillings and Sixpence, for every hour that such boat, barge or other vessel shall be detained by occasion of such weighing, measuring or gauging, and so in proportion for any greater or less time than an hour; and in default of immediate payment thereof, the same shall be levied by distress and sale of the goods and chattels of such collector, or of any lessee of such rates or tolls by whom such collector may have been employed, by warrant under the hand and seal of any Two Justices of the Peace for the county, liberty or place where such collector shal reside, rendering the overplus to the owner thereof after such distress and sale made.

94. Lock-keepers to attend at locks.

And be it Enacted, That any lock or bridge keeper appointed under the provisions of this Act to have the charge of opening or shutting any lock or bridge on any navigation to be improved or made under the provisions of this Act shall constantly attend to same, and shall at all reasonable times open same for the passage of trading or other vessels, the tolls and other rates required under this Act for such vessels being paid, and the bye-laws, rules and regulations which shall be made by the said Commissioners being complied with; and each such lock or bridge keeper wilfully neglecting the duties of his office

Penalty.

office in any of the matters aforesaid, shall be liable to a penalty of not more than Five Pounds for each offence.

95. A list of the rates, tolls, &c. to be affixed in conspicuous places.

And be it Enacted, That the said Commissioners shall cause an account or list, printed or painted in large legible characters, of the several rates and tolls which the said Commissioners shall from time to time direct and appoint to be taken, and which shall be payable by virtue of this Act, to be affixed on boards in some conspicuous place, and continued and renewed as often as the same shall be obliterated or defaced, to or upon every toll-house or building at which any such rates or tolls shall be collected or received.

96. Enforcing the payment of rates and tolls.

And be it Enacted, That it shall and may be lawful for the said Commissioners to appoint sufficient collectors and agents for the purpose of receiving the tolls and rates payable under this Act, and in case of refusal or neglect on demand to pay such rates or tolls as have accrued due unto the respective persons appointed to receive the same as aforesaid, the said Commissioners may sue for and recover the same by an action of debt in any of Her Majesty's Courts of Record or by civil bill, or the person to whom such rates or tolls ought to have been paid may and he is hereby empowered to seize the goods, articles or other things for or in respect whereof any such rates or tolls ought to be or ought to have been paid, or any part thereof, and the vessel laden therewith, or any other goods, articles or things belonging to the person liable to pay such rates or tolls, and detain the same until such payment shall be made, together with all reasonable charges for such seizure and detention; and if such goods, articles and things shall not be redeemed within Twenty-one Days after the taking thereof, the same shall be appraised and sold as the law directs in cases of distress for rent, and such rates, tolls and charges satisfied thereout.

97. Leasing the rates and tolls.

And be it Enacted, That it shall be lawful for the said Commissioners (if they shall think fit), by public bidding from time to time to let all or any of the tolls or rates payable under the provisions of this Act, for terms not exceeding Three Years, on such conditions and with such security for the payment of the rent reserved on such lease as the said Commissioners, with the consent and approval of the said Commissioners of Her Majesty's Treasury, shall deem expedient; and every such lease shall be valid; and the respective lessees thereof, and also such persons as such lessees shall appoint to collect and receive the rates or tolls so let, shall have the same powers and authorities for collecting and recovering the same as are hereinbefore by this Act given to the said Commissioners and the person appointed by them to collect such tolls and rates.

98. Power of re-entry in case of non-performance of the conditions of the lease.

And be it Enacted, That in case any of the rates or tolls by this Act authorized to be taken shall be demised or let, and the lessee thereof shall refuse or neglect to perform the terms and conditions on which the same shall be so demised or let, or any of them, or in case all or any part of any rent agreed to be paid by any such lessee shall be in arrear or unpaid for the space of Twenty-one Days next after any of the days on which the same ought to be paid pursuant to the lease or demise of such rates or tolls, or in case any collector of the said rates or tolls appointed by the said Commissioners as aforesaid shall be discharged from his office or shall die, abscond or absent himself, and any such collector who shall be so discharged, or the wife, widow or any of the children or family, or any representative of any such collector, or any other person being in possession thereof, shall refuse to deliver up, or shall not deliver up possession of any toll-house, office or other building, with the appurtenances thereto respectively belonging, to be used for the purposes of this Act, within the space of Seven Days next after a demand thereof in writing, signed by the said Commissioners, shall be given to him or affixed to such toll-house, office or building, or in case any such lease or demise shall in any manner become void or voidable, then and in any of the said cases it shall be lawful for any Two or more Justices of the Peace, acting within their jurisdiction, upon any application made by the said Commissioners, by warrants under the hands and seals of the said Justices, to order any constable or other peace officer, with such assistance as shall be necessary, to enter upon and take possession of every or any such toll-house, office or other building, with the appurtenances, and to remove and put such lessee, collector or other person as shall be found therein, together with his goods, from and out of the same and the possession thereof, and from the collection of such rates or tolls, and to put the said Commissioners, their agent or their new lessee or collector into the possession thereof; and thereupon it shall be lawful for the said Commissioners to vacate and determine the lease and demise or agreement (if any) which was previously subsisting, and the same shall accordingly be utterly void to all intents and purposes (save as to the contracts and agreements unperformed by the said lessees); and it shall be lawful for the said Commissioners in every such case, either during such proceedings, or on the termination thereof, again to demise or let the said tolls or rates in such and the same manner as if no former demise or agreement had been made with respect thereto.

99. How the income derived from navigation shall be applied.

And be it Enacted, That the income which the said Commissioners shall receive for or in respect of any tolls or other rates to be imposed and levied under this Act by reason of the improvement to be effected in any such river as aforesaid, shall be applied in the first instance in payment of the expenses attending or incident to the maintenance and repairs

repairs of the works which shall be constructed solely for the improvement of the navigation of such river, and the expenses of collecting such tolls and rates as aforesaid, and all other expenses attending the conservancy and due preservation of such river; and the surplus, after defraying such expenses, shall be applied in manner hereinafter mentioned.

100. Commissioners may borrow money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time, as occasion shall require, to borrow and take up at interest, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them in the execution of any works for the drainage or improvement of any land or the navigation of any river, or the formation of any reservoir, under or by virtue of this Act, and the repayment of such sum or sums of money, with interest, at a rate not exceeding Five Pounds per centum per annum, shall be secured to the party lending the same upon the monies accruing to the said Commissioners under or by virtue of the award to be made by the said Commissioners, as hereinafter mentioned.

101. Commissioners to grant certificates to lenders, for principal and interest.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time to grant a security by Deed, in the form of a certificate under the hands and seals of said Commissioners, to every person who shall so advance any sum of money as aforesaid, setting forth the sum for which the several certificates collectively are to be issued, the amount of the sum for which each such certificate is issued, the date of such advance, and the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment, or by instalments, and a general description of the land or river for the drainage or improvement of which or of the reservoir for the construction of which such sum shall have been borrowed, and that every such certificate shall be duly stamped as a mortgage, and made in the following words, or as near thereto as the circumstances of the case will admit:

Form of Certificate.

"By virtue of an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA [*here insert the title of this Act*] we, the undersigned, being the Commissioners for the execution of an Act passed in the fifth year of the reign of Her Majesty Queen VICTORIA [*here set forth the title of this Act*], in consideration of the sum of pounds of lawful money of Great Britain, to us lent and paid, by , do hereby certify, that the monies to become payable to us, under our award, for the drainage, improvement or construction of [*here describe the land, river or reservoir*], are hereby charged with the repayment of

of said sum of pounds, being the whole (or part, *as the case may be*) of the sum of pounds, required to be borrowed for the purpose aforesaid [*here insert the period when the money is repayable in one payment, or by instalments, as the case may be*], together with interest thereon [*or, if the money be payable by instalments*, with interest on such part of the said principal money as shall remain unpaid from time to time] at and after the rate of pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof, we have hereunto set our hands and seals the day of ."

And the monies mentioned in each such certificate, with the interest thereon, shall be re-payable and paid by the said Commissioners out of the monies which shall come to their hands under their award as aforesaid, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference, by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Commissioners, or any of them, who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

102. Loans may be transferred.

And be it Enacted, That every person who shall be entitled to the money secured by any such certificate, may transfer his right and interest to the said principal sum and interest money thereby secured to any person, by writing, duly stamped, wherein the consideration shall be truly stated; and every such transfer may be in the following words, or words to the like effect:

"I, [or, We] *A. B.*, of , in consideration of the sum of to me this day paid by *C. D.*, of , do hereby transfer a certain certificate of charge made by the Commissioners for the execution of an Act passed in the year of Her Majesty Queen VICTORIA, intituled [*here set forth the title of this Act*], to bearing date the day of for securing the sum of and interest, and all my right and title to the principal

cipal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said *C. D.*, his, her or their executors, administrators, successors or assigns (*as the case may be*). Given under my hand and seal this day of ."

Which transfer shall be produced and certified to the secretary for the time being of the said Commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such secretary shall make an entry amongst the records of the said Commissioners of the particulars of every such transfer, and sign the same.

103. Power to borrow money at a lower rate of interest.

Provided always, and be it Enacted, That in case the said Commissioners can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for the said Commissioners to borrow and take up, and they shall (if so required by the parties interested), borrow and take up from time to time in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the re-payment of such new loan shall be secured in like manner upon the monies accruing to the said Commissioners under their award as aforesaid; and the said Commissioners shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

104. Money may be borrowed for the purposes of this Act, from Public Loan Commissioners, or from Commissioners of Public Works.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed for carrying into execution an Act passed in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Extension and Promotion of Public Works in Ireland," or for the Commissioners appointed and acting under an Act passed in the fifth year of the reign of Her present Majesty, intituled, "An Act to authorize the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works and Fisheries, and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like Purposes," or any Act or Acts for amending the same respectively; and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend and advance any sum of money which may be necessary for the purposes of this Act upon the credit of the award to be made as hereinafter mentioned, provided that no advance of money shall be made by either of the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by

either of such Commissioners shall be repaid from and out of the monies accruing to the Commissioners for the execution of this Act under the said award, by and from the charges aforesaid, within such period, either by one payment, or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of the Treasury shall direct.

105. Accounts to be kept.

And be it Enacted, That the Commissioners for the execution of this Act shall cause books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid and expended about any drainage or improvement or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed and paid, and shall keep the accounts with reference to the improvement of any river or navigation separate and distinct from the accounts with reference to drainage; which books shall, at all reasonable times, on giving Three clear Days' notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or improvement to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

106. Commissioners to account yearly.

And be it Enacted, That Once at least in every year the said Commissioners shall prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works for the drainage or improvement of any such land or river as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the said Commissioners at their office in Dublin, and a copy of such account, signed by said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection, at all reasonable times, on payment of a fee of Sixpence, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Commissioners and Clerk of the Peace shall furnish copies of or extracts from any such account or statement, to any persons requiring same, upon payment of the costs of making such copies or extracts.

107. Commissioners to make award upon completion of any works under this Act.

And be it Enacted, That as soon as conveniently may be after any works for the drainage or improvement of any land or the navigation of any river under this Act, or any other work by this Act authorized to be executed, shall have been completed, the said Commissioners shall draw up, or cause to be drawn up,

up, an award or instrument in writing, which shall describe the land or river drained or improved as aforesaid, and the work or works which shall have been so completed; and such award shall also specify the respective owners, lessees or occupiers of such land so drained or improved as aforesaid, and the original value and the increase in the value of the land so drained or improved; and such award shall also specify the amount of the sums which shall have been expended in and about the works which shall have been so executed for drainage or improvement by drainage, and all expenses incident thereto (including the interest of all borrowed monies), and the proportions of such sums with which the land drained or improved by drainage shall be charged towards payment of the total amount of the costs, charges and expenses of such drainage, or incidental thereto, and whether the same shall be re-paid in one sum or by instalments, and if by instalments then said award shall also specify the several instalments and the manner by and in which such proportions shall be paid, regard being had to the degree of benefit conferred as aforesaid, and the circumstances of each particular case; and in the case where any water-power shall be improved by the making of embankments or reservoirs, or any works so completed, under the provisions hereinbefore contained or executed with the consent of the proprietors of mills as aforesaid, the said award shall also specify the lands liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which such lands shall be respectively charged, and whether same shall be repaid in one sum or by instalments as aforesaid; and in the case of the improvement of the navigation of any river, the said award shall specify the amount of the costs, charges and expenses to be borne in respect thereof by the district in which such river or any part thereof is situate, or the Grand Jury of the county in which such district shall be situate, or by the person who shall have guaranteed or secured the payment of the costs of such improvement; and the said award shall also specify whether such amount shall be re-paid in one sum or by instalments as aforesaid; and the said award shall also specify the baronies, half baronies or townlands in the district benefited by the improvement of such river, and the proportions in which such baronies, half baronies or townlands are thereby benefited; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the land so improved as aforesaid, and the proprietors of such lands in respect thereof respectively for the time being shall in future be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and

keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of each award.

108. Draft award to be deposited, and notice given for persons objecting to send in their objections.

And be it Enacted, That the said Commissioners shall, within One calendar Month next after the making of their said award, cause a draft thereof to be printed and sold at a price not exceeding Two Shillings and Sixpence for each printed copy thereof, and shall within such calendar Month cause such draft, or a copy thereof, to be deposited with the Clerk of the Peace for every county wherein the land or river or any part thereof, which shall have been drained or improved, may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same; and all persons shall have liberty to inspect the same on the payment of Sixpence; and when such draft of the award has been so deposited, the said Commissioners shall cause notice thereof to be posted in the usual places for posting Grand Jury notices in every barony, and county of a city and county of a town in which such district or any part thereof shall be situate, and shall also cause a like notice to be inserted Once in each week for Three successive Weeks in some one or more newspapers usually circulated in such district or the vicinity thereof; and the Commissioners shall by such notice require all Grand Juries and persons who may desire to lodge objections to the said award, to lodge the same at such place within such district, and before such time as shall be specified in the said notice; and the Commissioners shall also in the said notice state that they will proceed to hear any objections which may be lodged, and to settle the award at such time and place in or near such district as shall be specified in the said notice, such time not to be sooner than Two calendar Months from the first publication of such notice.

109. Commissioners to hear and decide objections (if any) to award.

And be it Enacted, That the said Commissioners shall attend at such time and place as they shall so appoint, and shall examine into the matter of any objection which shall be so lodged to the award, and shall hear all such proper evidence as may be offered to them in respect thereof, and shall make such alterations (if any) in the said award as they shall think fit, and may adjourn such attendance from time to time, and shall settle and sign such award.

110. Award to be deposited.

And be it Enacted, That every award, when finally settled by the said Commissioners, with a proper map or plan annexed thereto, describing the district and the lands therein to which such award shall

shall relate, shall be enrolled in the Rolls Office of Her Majesty's Court of Chancery in Ireland within Three Months after same shall have been finally settled, and a copy thereof shall be deposited with the Clerk of the Peace of each county in which such district shall be situate, who is hereby authorized and required to receive and deposit the same amongst the records of the county; and such award, when so finally settled and enrolled, shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of Her Majesty's Rolls Office shall be evidence that it was duly made, and that all the requisitions of this Act in relation thereto were complied with; and the said Commissioners shall, within One Month after the said award shall be finally settled, cause such award to be printed and kept for sale at a price not exceeding Two Shillings and Sixpence for each printed copy thereof.

111. Apportioned expenses to be charged on lands.

And be it Enacted, That the respective sums of money which, by the award of the said Commissioners, shall be specified as the proportions or contributions which the land drained or improved by drainage, by any works under this Act shall be charged with, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money, at the rate not exceeding Five Pounds per centum per annum from the date of such award, shall be charged on the land so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such land; provided, nevertheless, that any quit or chief rent issuing thereout, or other incumbrance thereon, previously to the date of the said award shall have priority to such charges, to the extent of the value of such land before the improvements were effected, but no farther; and the same respective sums of money, with such interest for the same as aforesaid, shall also be charged upon all other land, any part whereof shall be situate within One Mile of the lands so drained or improved, and which shall stand settled with the land so drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument, or the same set of instruments, but subject as to such other land to the full amount of all incumbrances affecting the same prior to the date of said award.

112. In case of non-payment of money so charged, Commissioners may enter into receipt of the rents, and mortgage the land.

And be it Enacted, That if any such sum of money as last mentioned, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of Three calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the said Commissioners, or any person authorized by them, to enter upon the land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, but subject nevertheless to such quit or chief rent or other incumbrance (if any) as aforesaid, and the rents and profits of such land to receive

and take until, thereby or otherwise, the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon the application by petition of the said Commissioners, to appoint a receiver of the rents, profits and issues of such land, which receiver shall have full power to receive the same rents, profits and issues, and apply the same, after deduction of the necessary expenses of the application to the said Court, and of such quit or chief rent issuing out of such lands and premises (if any) and without prejudice to such prior incumbrances, or any remedy for the recovery of same respectively, in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Commissioners, if they shall so think fit, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such land, or a competent part thereof; and every such mortgage, and every receipt given for the consideration money, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Commissioners is hereby authorized.

113. As to expenses of improvement of river when payable by Grand Jury.

And be it Enacted, That where the amount of the costs, charges and expenses payable under the said award for the improvement of any river under or by virtue of the provisions of this Act shall be payable by the Grand Jury of the county in which such river or any part thereof is situate, the Secretary of the said Commissioners shall certify to the Secretary of such Grand Jury the amount of such costs, charges and expenses, and the instalments and manner by and in which the same is payable under the award of the said Commissioners; and such Grand Jury is hereby required to make presentment of the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, as stated in such certificate, together with interest thereon respectively, at a rate not exceeding Five Pounds per centum per annum from the date of such award, to be raised off the baronies, half baronies or townlands named in said award, and situate in such county, and in the district or part thereof benefited by the improvement of such river, according to the proportions specified in the award of the said Commissioners; and in default of such presentment, the Court at such Assizes shall order such amount or instalments, with interest as aforesaid, to be raised off such county, and such order shall have the force of a presentment; and the Treasurer of such county shall insert such amount or instalments, with the interest thereon, as same shall be from time to time payable, in his warrant or warrants, and same shall be applotted, raised and levied as if same had been duly presented; and when and so soon as such amount or instalments as aforesaid, with the

the interest thereon, shall be raised and received by the Treasurer of the county, such Treasurer shall immediately pay over the same to the said Commissioners.

114. Where payable by an individual.

And be it Enacted, That where any person shall have guaranteed or secured in manner hereinbefore provided the amount of the costs, charges and expenses payable under the said award for the improvement of the navigation of any such river as aforesaid, such person shall pay to the said Commissioners the amount of such costs, charges and expenses, or of the instalments from time to time payable in respect thereof, together with interest thereon respectively, at a rate not exceeding Five Pounds per centum per annum from the date of such award, at the time and in the manner expressed and required by the said award; and if default shall be made in payment thereof respectively, or of any part thereof, the said Commissioners shall enforce such payment, by action of debt, or on the case, or by bill in equity, or otherwise, as such Commissioners shall think proper.

115. Application of surplus income of tolls.

And be it Enacted, That the said Commissioners shall apply the surplus income which shall arise from or in respect of any tolls or rates to be imposed and levied as hereinbefore mentioned upon or in respect of any river the navigation of which shall have been improved under this Act, after defraying all such incidental and other expenses as hereinbefore specified, in or towards the repayment of the sum which shall have been paid by any person respectively under any such guarantee as aforesaid, together with interest thereon at the rate of Five Pounds per centum per annum; and after such sum or sums shall have been repaid, together with all interest in respect thereof, then the tolls and rates shall, with the consent of the Commissioners of Her Majesty's Treasury, or any Three or more of them, be reduced to such an amount as will defray the expenses hereinbefore directed to be defrayed out of such tolls and rates: Provided always, That when the amount of the costs, charges and expenses payable under any award for the improvement of any river shall be payable by any Grand Jury, then and in such case the said tolls and rates shall, so soon as they shall supply a fund more than sufficient to defray the expenses hereinbefore directed to be first defrayed thereout, be reduced in like manner.

116. Proprietors of less than fee-simple may charge the expenses on the lands.

And be it Enacted, That any person entitled to less than an immediate estate of fee-simple, may, with the consent of the said Commissioners, charge (according to the like priority, and subject to the like incumbrances as aforesaid), the land to which he shall be entitled, and which shall have been drained or improved by drainage under the provisions of this Act, with the proportion of the expenses to be defrayed by him under the award of such Commissioners, or any part thereof, with lawful interest thereon, but so nevertheless that the charge upon

such lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least One-twentieth part of the whole sum of the instalments charged thereon by the award of the Commissioners, and the interest in respect thereof.

117. Power of leasing lands improved.

And be it Enacted, That it shall be lawful for any tenant in tail or for life, at any time after a copy of any such said award shall have been deposited with the Clerk of the Peace as aforesaid, to lease the land drained or improved by drainage, and described in the said award, which shall belong to him, for any term not exceeding Thirty-one Years, provided he shall reserve the best improved rent which can be reasonably had for the same, without any fine or foregift.

118. Commissioners to determine amount of increased rent to be paid for land improved.

And be it Enacted, That in case any land which shall be drained or improved by drainage under this Act shall at the time of making the said award be in the occupation of a person who shall not be a proprietor thereof, within the meaning of the provisions in that behalf hereinbefore contained, or in case any land so drained or improved shall be held under any person who shall within the meaning of the aforesaid provisions be a proprietor thereof by any other person or persons under any lease, agreement or contract for a lease, or shall be held under any lease, agreement or contract for a lease granted or made by any person or persons having any immediate or derivative title from or under such proprietor, then and in such case the said Commissioners shall determine the amount of increased rent or rents which such occupant or other person or persons having such immediate or derivative title from or under such proprietor as aforesaid shall pay in consequence of any improvement of such land, regard being had to the duration, extent and value of the interest of such occupant or person or persons in such land, and the necessary expenses to be incurred in the cultivation thereof, and the peculiar circumstances of each case, and regard also being had to the rates and taxes which will be payable by the proprietor under this Act, for the ordinary maintenance and support of the works which shall have been executed, but without taking into account any probable expenses which may be payable by the proprietor for the re-construction or re-instatement of such works, or any reparation of any extraordinary nature; and the landlord or respective landlords of such occupant, or other person or persons, shall have the same remedies for the recovery of such increased rent or rents as he or they was or were entitled to for the rent or rents originally reserved; and the decision of the said Commissioners shall be signified by indorsement on the lease or instrument or leases or instruments of demise, under the hands and seals of the said Commissioners, or any Two of them.

119. Tenants paying monies on account of

And be it Enacted, That every tenant or occupier of any land who shall pay any sum of money for the land in his occupation on account of

of his landlord, under any of the provisions hereinbefore contained, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the landlord of such land is hereby required to allow such deduction and payment; and every such tenant or occupier paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any tenant or occupier to deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

landlord, to deduct them from rent.

120. In certain cases the Commissioners to have the care of the works.

And be it Enacted, That in every case where the navigation of any river shall be improved under this Act, and in every case where any reservoir shall be made, the said Commissioners shall have and retain the continued care and conservancy of the several works which shall be executed under the provisions of this Act.

121. Mode of appointing trustees.

And be it Enacted, That in every case where no navigation shall have been improved or formed in connexion with drainage, or where no reservoir shall have been constructed under the provisions of this Act in any such district as aforesaid, the said Commissioners shall and they are hereby required to call a meeting of the proprietors of the land included in such district, within Three calendar Months at least after the date and execution of the said award, by notice to be inserted Once in each week for Three successive Weeks in some one or more newspaper or newspapers usually circulated in the vicinity of such land, and to be posted in the usual places for posting Grand Jury notices in every barony, county of a city or county of a town in which any part of such district shall be situate, in order to make choice of Trustees for the further execution of this Act; and such Trustees so to be chosen shall not be less than Three nor more than Nine, and they shall continue in office for the term of Three Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of Three Years, and also at the expiration of every succeeding term of Three Years, for ever thereafter, new Trustees shall from time to time be in like manner chosen by the proprietors of the lands included in such district, at a meeting for that purpose to be holden; and the said Trustees that shall afterwards be elected shall be chosen by the proprietors of the greater portion of such lands in value (such value to be calculated according to the proportions of the annual rate or tax with which they shall be respectively chargeable by virtue of this Act), or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and such Trustees, or the Majority of them for the

time being, are hereby fully authorized to make, alter, support and maintain, or cause to be made, supported, altered and maintained, all such cuts, drains, banks, sluices, tunnels, bridges, engines, buildings and other works, in and about the land so drained as aforesaid, as they shall think necessary for draining and preserving the same; and all the powers and provisions of this Act, relating to the Commissioners, which apply to or can be exercised by the said Trustees, shall be and the same are hereby extended to the said Trustees, as if the said Trustees as well as the said Commissioners had been expressly mentioned in such powers and provisions respectively; and in case any Trustee shall die or refuse or become incapable to act in the execution of this Act, before the expiration of the term of Three Years, for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of Three Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of Three Years, and that every such Trustee being so chosen shall, during the remainder of the existing term of Three Years, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of Three Years, and after the death, refusal or incapacity of any Trustee, and until new Trustees or new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly-elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

122. Commissioners or Trustees to hold annual meetings, and fix the amount to be raised for maintenance and repairs for the ensuing year.

AND for the purpose of effectually sustaining and upholding, in all cases in which works shall be executed under this Act, all and singular the drains, watercourses, banks, sluices, floodgates, tunnels, watergates, buildings, bridges, steam or other engines and other works, and of supplying in such cases all things that may be required to work the same, and for the payment of all necessary expenses of maintenance of works of drainage, reservoirs and water-power, and all other expenses incident thereto; BE it Enacted, That it shall be lawful for the said Commissioners (or in cases where Trustees are appointed, for the said Trustees) and they are hereby respectively authorized and required, once in every year, to meet in some convenient place, and then to determine and fix the sum of money that shall be contributed and raised during the then ensuing year for the purposes of effecting, sustaining, supporting and upholding all and singular the aforesaid

said works, and for other the purposes of this Act, and (having regard to and in the proportions fixed for such purpose by the said Commissioners in their award) to assess, rate and tax the proprietors of the said land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said Commissioners and Trustees respectively shall have the same powers, rights and privileges by entry or mortgage to enforce the payment of all such last-mentioned sums of money, costs, charges and assessments as are hereinbefore given to the said Commissioners for the enforcing payment of the sums charged under their award as aforesaid; and at every such meeting held by such Trustees, all questions shall be determined by the Majority of the Trustees who shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act without the concurrence of the other or others of them.

123. Commissioners to determine differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested or claiming to be interested in any land or river to be drained or improved in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such land or river, or touching any other matter relating thereto, it shall be lawful for the said Commissioners, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned, for the purpose of this Act, but no further or otherwise.

124. Commissioners may have an assessor.

And be it Enacted, That upon any inquiry or proceeding requiring legal assistance, to be had before the said Commissioners, in pursuance of the provisions of this Act, it shall be lawful for the said Commissioners, should they so think fit, to retain and appoint as their assessor any one of Her Majesty's Counsel at law in Ireland to act with and assist the said Commissioners in adjudicating upon the matter of such inquiry or proceeding as aforesaid; and it shall be lawful for the said Commissioners to defray the expenses of retaining or appointing such assessor out of the funds at their disposal under this Act.

125. Persons summoned by Commissioners, and refusing to give evidence, to be punished.

And be it Enacted, That it shall be lawful for the said Commissioners, upon any inquiry or proceeding to be had before them under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Commissioners are hereby empowered to administer) any person whomsoever; and if any person having

having been so summoned before the said Commissioners to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained by the said Commissioners, to defray the charges of his attendance, shall not appear before the said Commissioners pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the said Commissioners, upon proof thereof upon oath, shall and they are hereby authorized, by warrant under their hands and seals, to direct any person whomsoever to cause any sum of money, not exceeding Five Pounds, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any) upon demand to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence or otherwise forswear themselves in any such examination, may be prosecuted for same, and upon conviction thereof shall be liable to the same pains and penalties as persons guilty of wilful and corrupt Perjury are now liable to by law.

126. Power to assess costs.

And be it Enacted, That in case the said Commissioners shall, upon the hearing and determination of any claim or objection to be delivered to or made before them in pursuance of this Act, so think proper, it shall be lawful for them to award and order such costs and charges as they shall think reasonable to be paid to the party, in whose favour any such determination shall have been made, by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same on demand, then and in every such case it shall be lawful for the said Commissioners and they are hereby authorized and required, by warrant under their hands and seals, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any) on demand to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Commissioners shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action; and in case such person shall upon the trial of such action establish the right against which the Commissioners shall have determined

mined, such person shall not be liable to the payment of any such costs as last aforesaid, but shall be entitled to his costs of such action.

127. Allowing parties to try their rights by an issue at law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any land to be included in any drainage or improvement to be effected in pursuance of this Act shall be dissatisfied with any determination of the said Commissioners concerning any right or interest in, over or upon such land or any part thereof, made in the execution of this Act, or any injury or damage sustained by him, by reason of any thing done by the said Commissioners or by their authority, or in the prosecution of any of the said works, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue against the person in whose favour any such determination has been made, within Three calendar Months after the determination of the said Commissioners shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within Three Months after such injury or damage shall have been sustained; and thereupon the person so dissatisfied shall proceed to a trial at law at the next Assizes immediately following, to be held for the county where the land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined according to the event of such trial: Provided always, That it shall and may be lawful for the Assistant Barrister of the county in which such parties or either of them reside, with the assent of such parties, to be signified by any agreement in writing under their hands, to try and finally determine such matters in difference between them on a civil bill to be preferred before him by either of said parties: Provided also, That if no such action at law be commenced, or no civil bill be brought, within Three calendar Months as aforesaid, or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said

If no action, the Commissioners' determination to be final.

Death of parties not to stop proceedings at law.

Commissioners shall be binding and conclusive to all intents and purposes whatsoever: Provided also, That if any of the parties in any such action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened: Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the said Commissioners in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in notwithstanding such differences or suits.

Suits not to delay the drainage.

128. Death of parties not to suspend the execution of this Act.

And be it Enacted, That if any of the parties interested in the said proposed works shall die before the same shall be completed, the powers and authorities vested in the said Commissionors shall not be thereby determined or suspended, but the said Commissioners shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

129. How actions may be brought after the death of parties.

Provided always, and be it Enacted, That if any person, in whose favour a determination as aforesaid shall have been made, and against whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same within the time so limited as aforesaid against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein, in the same manner as if such person had been actually living; and the rights of all parties shall be equally bound and concluded by the event of such action.

130. Accounts to be laid before Parliament.

And be it Enacted, That the said Commissioners shall cause detailed accounts in writing of their proceedings under this Act, and of the several sums received by them as such Commissioners, and of the sums expended by them, and the mode of such expenditure, and of the several works made or in progress under this Act, to be made up to the Thirty-first day of December in each year; and such accounts shall be laid before both Houses of Parliament within Thirty Days thereafter, if Parliament be then sitting, or within Thirty Days after the First meeting of Parliament subsequent to the Thirty-first day of December; and the said Commissioners shall, as often as they shall be required so to do by the Commissioners of Her Majesty's Treasury, transmit

to

to the said Commissioners of the Treasury like accounts made up to such period as the said Commissioners of the Treasury shall direct.

131. Commissioners to make bye-laws.

And be it Enacted, That it shall and may be lawful for the said Commissioners and they are hereby authorized and empowered from time to time to make such bye-laws, rules, orders and regulations, not being contrary to any law or statute in force in Ireland, as to them shall seem meet and proper, according to the circumstances of every case, for better carrying into effect the purposes of this Act, or in any manner relating thereto, and from time to time to alter or repeal all or any of such bye-laws, rules, orders or regulations, and to make others, and to impose such fines and penalties, not exceeding the sum of Five Pounds, upon all persons offending against any of such bye-laws, rules, orders or regulations, as to the said Commissioners shall seem reasonable; and all such bye-laws, rules, orders and regulations shall be reduced into writing, and signed by the said Commissioners, or any Two or more of them; and a copy thereof, signed by the said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district or river to which such bye-laws shall relate shall be situate, and the same shall be kept with the records of the county; and a printed or painted copy of such of the said bye-laws, rules, orders or regulations, as shall subject any person, not being an officer or servant of the said Commissioners, to any fine or penalty, shall be exhibited on boards at each toll-house, lock-house, and in such other places as to the said Commissioners shall seem fit, and shall from time to time be renewed as often as the same or any part thereof shall be obliterated or destroyed; and such bye-laws, rules and orders shall be binding upon and shall be observed by all persons whomsoever; provided that all such bye-laws, rules, orders and regulations be approved of and confirmed by the Lord Lieutenant or other Chief Governor or Governors of Ireland in Council, by writing, under his or their hands.

132. Copy of bye-laws to be evidence.

Provided always, and be it Enacted, That in all cases of prosecution for any offence or offences against any of the bye-laws, rules, orders and regulations of the said Commissioners, the production of a book or document purporting to contain the bye-laws, rules, orders or regulations of the said Commissioners, and authenticated by the signatures of any Two or more of the said Commissioners, shall be evidence of the existence of such bye-laws, rules, orders or regulations: Provided always, That in every such prosecution it shall be proved that such printed or painted copy as aforesaid of such bye-laws, rules, orders or regulations was duly exhibited in manner hereinbefore directed.

133. Penalty for opening cloughs and letting off the water.

And be it Enacted, That if any person other than such persons as are authorized by virtue of this Act shall at any time draw or open any of the cloughs, sluices or canals which shall be made under the authority of this Act, or shall wilfully or maliciously let off the water of any of the

the said reservoirs, rivers, canals or drains, every such person shall for every such offence, on being thereof convicted, on the oath of one or more credible witness or witnesses, before any one or more of Her Majesty's Justices of the Peace acting in Petty Sessions for the county where the offence shall be committed, forfeit and pay any sum of money not exceeding the sum of Twenty Pounds, to be levied by distress and sale of the goods and chattels of such offender, by warrant under the hand and seal of the Justice before whom such conviction shall be had, which sum so forfeited shall be employed in and towards carrying on the works to be done and executed, maintained and supported, in pursuance of this Act; and for want of sufficient distress, such offender shall, by such Justice, be committed to prison for any time not exceeding Six calendar Months, unless he shall pay the said penalty and costs of conviction.

134. Persons destroying works guilty of Felony.

And be it Enacted, That all and every person or persons whomsoever, who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and, being convicted thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for the term of Seven Years, or to be imprisoned for any term not exceeding Two Years.

135. Penalty on persons depositing gravel, &c. so as to obstruct the navigation or free passage of water in the rivers, &c. improved under this Act.

And be it Enacted, That if any person shall throw or deposit any ballast, gravel or other matter or thing, so as to interrupt or obstruct the free passage of water through or the navigation of any of the rivers, streams, watercourses, or any of the cuts, sluices or canals which shall have been improved by the said Commissioners under this Act, or shall, without the consent of the said Commissioners, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks, locks or trackways of any of the rivers, drains, canals or side-cuts aforesaid, or if any person shall maliciously open any lock, sluice, dam, gate or watercourse belonging to the said navigation or drainage, or shall so leave any of the same open after any boat has passed, or otherwise maliciously mis-spend or waste the water of the said navigation, or shall raise any wall, building or other obstruction in said drains, canals, rivers or streams, without the consent in writing of the Commissioners, such person being convicted of any of the offences aforesaid, before any Justice or Justices of the Peace of the county where such offence shall be committed, or of any adjoining county, by the oath of one or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding Ten Pounds, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices; and all such walls, buildings or other obstructions may be forthwith pulled down and removed by the said Commissioners, or any person or persons duly authorized

authorized by them, and the materials of such walls, buildings or obstructions may be sold by order of the said Commissioners to defray the costs of their removal.

136. Penalty on persons assaulting Commissioners and others engaged on the works.

And be it Enacted, That if any person or persons shall wilfully prevent or assault any of the Commissioners for the execution of this Act, or any engineer or other officer, servant or workman acting in aid or under the orders of any such Commissioners in the execution of any of the powers given by this Act, or shall wilfully destroy or injure any of the instruments, tools or implements or materials kept or used by the said Commissioners or any of them, or by any person or persons employed by them or any of them, for or in the execution, maintenance or repairs of any of the works under this Act, any person so offending shall forfeit and pay for every such offence, upon conviction thereof, by the oaths of one or more credible witness or witnesses, before any Justice of the Peace, such sum, not exceeding Five Pounds, as such Justice shall think fit.

137. Proceedings by summons for the recovery of penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons, without information in writing, shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

138. Form of conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in words to the same effect:

to wit. } "BE it Remembered, That on the day of *A. B.* is convicted before Her Majesty's Justices or Justice of the Peace for the county of by virtue of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, intituled [*here insert the title of this Act, specify the offence and the time and place when and where the same was committed, as the case shall be*]; and we do adjudge that the said A. B. shall for the said offence

Given under our hands and seals [or, my hand and seal], the day and year aforesaid."

139. Recovery and application of penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or incurred under the provisions or directions thereof, and all sums payable for compensation or damage, the manner of levying and recovering whereof is not hereinbefore otherwise particularly directed, may be recovered in a summary way by the order and adjudication of some Justice of the Peace of the county in which such offence shall have been committed, on complaint to him for that purpose exhibited, by the oath or affirmation of any person, or on the confession of the party offending, which oath or affirmation such Justice is hereby authorized to administer; and in default of payment of such penalties or forfeitures, or sums for compensation or damage, the same shall be levied by distress and sale of the goods and chattels of the party making such default, by warrant under the hand and seal of such Justice, rendering the overplus (if any) on demand to the party whose goods and chattels shall be so distrained, the reasonable charges of such distress and sale being deducted; and in case such penalties or forfeitures shall not be forthwith paid off, it shall be lawful for such Justice and he is hereby authorized and required to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made of such warrant of distress, unless the offender can give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice, or before some other Justice of the Peace for the county where such offence shall have been committed as aforesaid, on such day or days as shall be appointed for the return of the warrant or warrants of distress, such day or days not being more than Eight Days from the taking any such security, and which security any Justice is hereby empowered to take by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereupon to levy the penalty and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he has no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain for any time not exceeding Three calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid, and be by them applied to the purposes of this Act.

140. Proceedings not to be quashed for want of form.

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or in case of appeal by or before the Assistant Barrister, shall not be quashed or vacated for want of form only.

141. No action to be brought against person acting in execution of this Act, until after notice has been given, specifying the cause of action.

And be it Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authority herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees or persons against whom proceedings are intended to be commenced, at least Twenty-one Days before such action, suit or information shall be commenced.

142. No action to be brought after tender of sufficient amends; if no tender made, money may be paid into Court by leave, before issue joined.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

143. General Issue.

And be it Enacted, That if any action shall be brought against any person or persons as aforesaid for any act, matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give the special matter in evidence.

144. Appeal to Quarter Sessions where parties think themselves aggrieved.

And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing done by virtue of this Act, except in cases hereinbefore provided for, to appeal to the General Quarter Sessions of the Peace which shall be held in and for the county wherein the matter of complaint may arise, or any adjournment thereof, within Six calendar Months next after the cause of complaint shall have arisen, first giving or causing to be given Twenty-eight Days' notice thereof, in writing, to the Commissioners or Trustees, or one of them, and to the parties intended to be appealed against; and the Justices at their said Quarter Sessions, or any adjournment thereof, are hereby authorized and required to hear and determine the matter of such appeal, and to make such order respecting ame, and

to

to award such costs as to them in their discretion shall seem meet, and by their warrant to levy the costs awarded, by distress and sale of the goods and chattels of the parties respectively adjudged to pay the same, and rendering the overplus (if any) to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and in case such appeal shall appear to the said Justices to be frivolous, vexatious or without foundation, then the said Justices shall award such costs to be paid by the appellant or appellants as to them in their discretion shall seem reasonable, and to be levied in manner aforesaid.

145. Commissioners not liable for damage arising to lands, &c. from insufficiency of embankments, &c., unless notice previously given.

And be it Enacted, That nothing herein contained shall be construed to render the said Commissioners or Trustees respectively liable for any consequential damages which may happen to any land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, said Commissioners or Trustees may take upon them the duty of regulating or maintaining: Provided, nevertheless, That if the owner or occupier of such land shall have given notice in writing to the said Commissioners, or to one of such Trustees, warning them or him of the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring them or him to strengthen, amend and repair the same, and the said Commissioners or Trustees (as the case may be) shall not within Seven Days next after the delivery of such notice, take proper precautions to prevent the same, then in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by the said Commissioners or Trustees under this Act.

146. Clause (C.) Persons injured by insufficiency of bridges, may memorialize the Lord Lieutenant.

AND whereas many county and other public bridges in Ireland, while they are sufficient as road-ways or passages, are insufficient to discharge the flood-waters and streams over which they are constructed, by means of which much injury is done to and improvement prevented in lands lying above such bridges, and it is expedient to provide means by which the said evil should be remedied; BE it therefore Enacted, That where, owing to the insufficiency of any county or other public bridge to discharge the flood-waters in the river or stream over which the same may be built, any land is injuriously affected or improvement thereupon prevented, it shall be lawful for any person interested in such land to present a memorial to the Lord Lieutenant, or other Chief Governor or Governors of Ireland, stating the nature of the injury sustained, or the improvement prevented, together with the cause thereof, and praying that the said Commissioners of Public Works may be directed to examine and report on the same.

147. Clause (D.) The Lord Lieutenant may direct the Commissioners of Public Works to examine and report.

And be it Enacted, That thereupon, if the Lord Lieutenant, or other Chief Governor or Governors of Ireland, shall so order (and if the person or persons so applying, depositing with the said Commissioners such sum of money as they may require to defray the expense of such examination and report), the said Commissioners shall inquire into the facts of the case, and the propriety and expediency of complying with such memorial; and if the said Commissioners shall, upon such inquiry, be of opinion that injury is caused to, or improvement prevented in, the land of the person or persons so applying, they shall report the same to the said Lord Lieutenant, or other Chief Governor or Governors; and such report shall be accompanied by a plan, estimate and specification for the execution of the proposed works for such bridges, or to remedy the evil complained of in such memorial, and also a statement of the proportions in which the expenses thereof should be defrayed by the county or counties, if more than one, between which such bridge shall be, and by such neighbouring counties (if any) as ought to be contributory to such expenses; and the said Lord Lieutenant, or other Chief Governor or Governors, shall, upon the receipt of such report of the said Commissioners, cause the same to be transmitted to the secretary of the Grand Jury of each county named in such statement as proper to be contributing to such expenses, to be by him laid before the Grand Jury at the next assizes, and each such Grand Jury shall take the same into consideration; and thereupon it shall be lawful for each such Grand Jury, at the assizes next after such report shall have been so transmitted to their secretary, if they shall so think fit, to present, to be raised off the county at large, or any barony or half-barony therein, such sum as by the report of the said Commissioners shall be payable by such Grand Jury, or such other sum as such Grand Jury may in their discretion think fair and reasonable towards the proposed alteration, reconstruction or rebuilding of such bridge, in such manner and according to such plan and specification and on such site as the said Commissioners may in their said report have recommended, or in case one county only shall be liable to such expense, then according to such altered or modified plan or specification as the Grand Jury of such county may, on consideration, direct and approve: Provided always, That One Month before the meeting of such Grand Jury, a notice in writing, signed by or on behalf of the person presenting such memorial as aforesaid, specifying that it is intended to bring under the consideration of such Grand Jury the object of such memorial, shall have been published in Three successive publications of a newspaper circulating in the county or counties wherein such bridge may be situate, or which it is proposed shall be contributory to the expense as aforesaid.

Party applying to give One Month's notice.

148. Clause (E.) The Grand Jury of one county having presented, the Grand Jury

And be it Enacted, That in all cases where two or more counties shall, under the provisions hereinbefore contained, be liable to contribute to the expense of the proposed work, and where the Grand

of the other county to do so for a similar amount.

Jury of one of such counties shall have been presented the amount of the proportion of expenses required or proposed by the report of the said Commissioners to be contributed by such county, or such other sum as they may consider fair and reasonable, the Grand Jury of the other or others of the said counties shall and they are hereby at the same or next succeeding assizes authorized and required to present their respective proportions of the expenses mentioned in the report of the said Commissioners, or to present respectively a sum equal in amount to that previously presented by the Grand Jury of the other of the said counties: Provided nevertheless, That where more than two counties shall have been declared by the report of the said Commissioners to be liable to contribute to the expense of any such bridge, the Grand Jury of any of such counties shall be at liberty to appeal against the report of the said Commissioners to the said Lord Lieutenant, or other Chief Governor or Governors in Council, in such and the same manner and under such restrictions and provisions as are contained in an Act passed in the Session of Parliament holden in the fourth and fifth years of the reign of King WILLIAM the Fourth, intituled, "An Act for the more effectually providing for the Erection of certain Bridges in Ireland."

149. CLAUSE (F.) Presentments may be made without application to Sessions.

And be it Enacted, That every such presentment may and shall be made without any previous application to or approval by any Special Sessions, under the provisions of an Act passed in the sixth and seventh years of the reign of his said Majesty King WILLIAM the Fourth, intituled, "An Act to consolidate and amend the Laws relating to the Presentment of Public Monies by Grand Jury Presentment in Ireland."

150. CLAUSE (G.) In case Grand Jury shall neglect to present, Court may order that the person presenting memorial may be at liberty to do so.

And be it Enacted, That in case no presentment shall be made by any Grand Jury, pursuant to such report, for the alteration, reconstruction or rebuilding of such bridge, or in case only a portion of the expenses shall have been presented by any Grand Jury or Grand Juries, the Court may, at the same or any succeeding assizes, make an order, directing that the person presenting such memorial as hereinbefore mentioned shall be at liberty, at his or their own expense, to have the said bridge altered, reconstructed or rebuilt, in such manner and according to such plan and specification and on such site as may be approved of by the said Commissioners of Public Works.

151. CLAUSE (H.) Under whose direction alterations are to be made.

And be it Enacted, That in case such bridge shall, under the provisions aforesaid, be altered, reconstructed or rebuilt at the expense of any one county, the work shall be executed as any other bridge within such county; and that in case such bridge shall be altered, reconstructed or rebuilt at the expense of two or more counties, or at the expense of any memorialist under this Act, the work shall be executed by and under the control of the said Commissioners of Public Works: Provided

152. Clause (I.) Persons may traverse.

Provided always, and be it Enacted, That in all cases where one county only shall be liable to contribute to the expense of any such bridge, it shall be lawful for any person paying county rates, and liable to contribute to the expense of the alteration, reconstruction or rebuilding of such bridge, to traverse the presentment for the same in respect of the truth of any of the statements contained in any such memorial or report as hereinbefore mentioned, or in respect to the amount of expenses necessary in the reconstruction, alteration or rebuilding such bridge, but not further nor otherwise; and it shall be lawful in like manner and to the like extent, but no further, for any person paying county rates and liable as aforesaid, to traverse the presentment for such bridge which shall be made by the Grand Jury of any county first making presentment towards the expenses thereof, but no traverse shall lie against any presentment subsequently made by the Grand Jury of any other county.

153. Clause (K.) In case Grand Jury neglect to present, Court may make an order.

And be it Enacted, That in cases where the Grand Jury of any county are required by this Act to present towards the expense of altering, reconstructing or rebuilding such bridge, and shall neglect or refuse so to do, the Judge of assize shall make an order directing that the treasurer of such county shall insert the necessary sum in his warrant, and such order shall have the effect of a presentment, and the sum mentioned in such order shall be levied off such county in the same manner as if the same had been duly presented by such Grand Jury.

154. Clause (L.) Penalty for wilfully causing obstructions in streams or rivers.

AND whereas much injury is caused by persons placing or throwing stones and other materials into the rivers and streams in Ireland, and thereby and otherwise raising obstructions therein; BE it therefore Enacted, That if any person shall, after the passing of this Act, wilfully throw or place any stones, gravel or other material in any stream, river or watercourse, and thereby or by any other means create any obstruction in the free discharge of the waters therein, whereby the lands of any other person or persons may be flooded or in any manner injured, every such person, being convicted thereof before Two or more Justices of the Peace at Petty Sessions, shall forfeit and pay such sum, not exceeding the sum of Five Pounds, as such Justices may think proper, which penalty shall, in case of private property, be paid to the party aggrieved, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as the Justice or Justices of the Peace shall direct; and if such penalty, together with costs, if awarded (which costs such Justice or Justices of the Peace is and are hereby authorized to award if he or they shall think fit), shall not be paid either immediately after the conviction, or within such period as the Justice or Justices shall at the time of the conviction appoint, the Justices may commit the offender to

the Common Gaol or House of Correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the Justices shall think fit, for any term not exceeding Two calendar Months, unless such sum and costs be sooner paid; and it shall be lawful for such Justices to direct that the obstruction complained of shall be removed, and include in the costs which he is hereinbefore authorized to award, the expense of removing such obstruction: Provided always, That nothing herein contained shall extend to any case where the person complained of acted under a fair and reasonable supposition that he had a right to do the act complained of.

155. Not to affect the powers of the Shannon Commissioners.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested in the Commissioners appointed under an Act passed in the Session of Parliament holden in the second and third years of the reign of Her present Majesty, intituled, "An Act for the Improvement of the Navigation of the River Shannon."

156. Clause (M.) Saving the rights of the Irish Society, under 1 & 2 Vict., c. 87.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested in the Irish Society, by an Act passed in the second year of the reign of Her present Majesty, intituled, "An Act for draining and embanking certain Lands in Lough Swilly and Lough Foyle, in the Counties of Donegal and Londonderry."

157. Clause (N.) Saving Canals.

Provided always, and be it Enacted, That nothing herein contained, shall authorize or enable the said Commissioners to make or construct any work injurious to the navigation of any canal in Ireland, nor to lessen the necessary supply of water thereto, without previously making adequate provision in lieu thereof.

158. This Act not to repeal or alter the Act 1 & 2 Will. 4, c. 57, s. 13.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested or which may be vested in any company or person under the provisions of an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King William the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to widen, embank and remove Obstructions in Rivers," or any Act for the amendment thereof.

159. Provision for taxation of costs.

And be it Enacted, That in case any solicitor or attorney shall be employed to perform any business for any of the purposes of this Act, it shall be lawful for any person who shall be chargeable with any portion of the costs of performing any such business, to apply to the Court of Chancery for taxation of such costs and charges, although no part thereof shall be incurred for any business done in any court; and it shall be lawful for such Court of Chancery to direct a taxation of such costs and charges by a Master of the Court of Chancery, upon

upon the undertaking and security of such person to pay his proportion of the amount of such costs when taxed, and upon such other terms (if any) as to such Court shall seem fit, and such costs shall be taxed accordingly; and such attorney or solicitor shall have such and the like remedies against all parties chargeable with such costs as in the case of costs incurred for business done in such Court respectively, and taxed, ascertained and certified in pursuance of the order of such Court respectively.

160. Definition of terms in this Act.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act shall exclude such construction), the word "Land" shall extend to all arable, pasture or otherwise profitable, and to all waste uncultivated land, whether bog land, land periodically flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other hereditaments corporeal or incorporeal, and any estate or interest therein, and any undivided part thereof, and any charge or incumbrance thereon; and the word "River" shall extend to all rivers, lakes, canals, streams and estuaries; and the words "Person or Persons," and the words "Proprietor or Proprietors," shall extend to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the word "Counties" shall extend and be applied to all counties, counties of cities and counties of towns; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

161. Piers not to be constructed without leave of the Admiralty.

Provided, and be it Enacted, That nothing in this Act contained shall authorize the said Commissioners or any trustees elected hereunder, or any other person, to construct or erect any pier, quay, wharf, jetty, breast or embankment in or adjoining to any public harbour, or any river immediately communicating therewith, so far as the tide flows up the same, without the previous authority and consent of the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral of the United Kingdom, to be for that purpose signified in writing under the hand of the Secretary of the Admiralty for the time being.

162. Act may be altered.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE

SCHEDULE

To which this ACT refers.

BY the Justices and Associate Cess-payers at the Presentment Session held at in the county of on for the barony (*or* half barony *or* county at large) of [*here state the name of the barony or county for which the Presentment Sessions are held*].

We declare that we approve of the works proposed to be made for making navigable or improving the navigation of [*state the river, &c.*] and described in the report, schedules, maps, plans and estimate deposited with the Clerk of the Peace of the county of by the Commissioners for carrying into effect an Act passed in the year of the reign of Her present Majesty, intituled, [*here state the title of this Act*], and laid before us: and we further agree and consent that the proportion of the costs and expenses of so much of the said works as shall relate to such navigation which shall be assessed upon the barony (*or* half barony *or* county) of or any townland or townlands thereof, under the provisions of the said Act, shall be raised off the said barony (*or* half barony *or* county) or townland or townlands respectively.

Signed on behalf of the said Presentment Session.

A. B.,

Chairman of the said Presentment Session.

DRAINAGE (IRELAND) BILL.

AMENDMENTS

TO BE PROPOSED

BY LORD ELIOT,

In Committee on the "Bill to promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland."

Page 3. Clause 7, line 26, *After* "and" *insert* "it shall be lawful for any such Grand Jury"

" " 31, *After* "deposit," *insert* "or deposits"

Page 4. Clause 9, line 43, *After* "examine" *insert* "on oath or otherwise"

Page 6. Clause 12, line 4, *After* "the" *omit* "owners" and *insert* "reputed proprietors"

" " 6, *After* "and the" *insert* "reputed"

Page 8. Clause 15, line 7, *After* "Act," *omit* "as next hereinafter mentioned,"

Page 10. Clause 19, line 7, *Omit* "similar" and *after* "presentment" *insert* "for any public work"

" " 10, *After* "any" *insert* "such"—and *after* "apply" *omit* "to such presentment so to be made"

" " 11, *Omit* "under this Act, and" and *after* "traverse" *omit* "thereof"

Page 11. Clause 23, line 14, *After* "years" *omit* "either absolute or"

" " 15, *Omit* "determinable or"

Page 12. Clause 24, line 22, *After* "proprietor," *insert* "the assent of"—and *after* "be" (lines 22, 23) *omit* "considered the proprietor" and *insert* "taken into account in respect"

" " lines 23, 24, *After* "lands" *omit* "for the purpose of assenting under the provisions of this Act"

Page 24. Clause 52, Marginal Note, *After* "making" *omit* "such"—and *after* "repairs" *omit* "as were"

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Page 29. Clause 61, line 32, *After* "county," *omit* "not less than" and *insert* "next after the expiration of"

" " 34, *After* "Secretary," *omit* "as if the same were a" and *insert* "in like manner as any person may be empowered to traverse any"—*After* "for" *insert* "any road, for"—and *after* "damages" *omit* "made"

" " 36, *After* "such" *omit* "reduced" and *after* "sum," *omit* "if any,"

Page 51. Clause 107, line 4, *After* "the" *omit* "respective owners, lessees or occupiers" and *insert* "several quantities belonging to the reputed proprietors respectively"

" " 11, *After* "sums" *omit* "with which" and *insert* "payable in respect of the several parcels or portions of the"

" " 12, *After* "drainage" *omit* "shall be charged"

Page 52. Clause 108, line 25, *After* "Juries" *insert* "or committees thereof"

Page 53. Clause 111, line 17, *After* "contributions" *omit* "which" and *insert* "payable in respect of the several parcels or portions of the"

" " 18, *Before* "by" *insert* "or" and *after* "Act" *omit* "shall be charged with"

" " 22, *After* "on" *insert* "such several parcels or portions of"

" " 29, *After* "upon" *omit* "all" and *insert* "so much of any"

" " 30, *After* "land," *omit* "any part whereof shall be"

" " 31, *After* "and" *omit* "which shall stand"

" " 34, *After* "instruments" *insert* "as the said Commissioners shall by the said award, or any instrument under their hands and seals, and enrolled in the said Rolls Office, direct, limit and appoint, having regard to the sufficiency of the said lands to satisfy and secure the charge thereon,"

" " 35, *After* "award" *insert* "Provided always, That if at any time previous to the issuing of the final notice by the said Commissioners, hereinbefore directed to be given in the Dublin Gazette and otherwise, any proprietor of land situate within the limit aforesaid of the land so drained or improved, and which land would, under the provisions hereinbefore contained, become chargeable with any portion of the expenses of such

such improvement, shall prefer to give other security satisfactory to the Commissioners, in lieu of the land so liable, together with the land so drained, that then and in such case the said Commissioners shall accept such security, and thereupon the other land of such proprietor, not so drained or improved, shall stand freed and discharged from all liability to any portion of the expense of such improvement."

Page 53. Clause 112, line 36, *After* "any" *omit* "such"—and *after* "money" *omit* "as last mentioned" and *insert* "so charged as aforesaid,"

Page 55. Clause 116, line 42, *After* "proportion of" *omit* "the" and *insert* "any"

Page 56. Clause 117, line 7, *After* "life" *insert* "being a proprietor whose estate, as such, may be liable to the payment of any expenses chargeable under or by virtue of the provisions of this Act"

" Clause 118, line 25, *After* "occupant" *omit* "or" and *insert* "and"

" " 37, *After* "persons" *insert* "and every intermediate landlord"

" Clause 119, line 44, *After* "every" *omit* "tenant or"—and *after* "who" *insert* "not being a proprietor thereof within the meaning of this Act"

Page 57. Clause 119, line 1, *Omit* "of his landlord, under any of the provisions hereinbefore contained," and *insert* "any sum charged thereupon under and by virtue of the provisions of this Act,"

" " 3, *After* "aforesaid" *insert* "and the next immediate landlord of such occupier, if not himself a proprietor of such land within the meaning of this Act, shall and he is hereby authorized to make the like deduction from such of the rent payable by him, and so on, each sub-tenant and mesne tenant of such land, not being a proprietor thereof within the meaning of this Act, being entitled to deduct the sum so charged upon such land under or by virtue of this Act from the rent payable to his next immediate landlord, until such deduction shall be made from the rent payable to a person being a proprietor within the meaning of this Act, who shall not be entitled to make any such deduction from the rent, if any, payable by him;"

Page 57. Clause 119, lines 4, 5, *Omit* "and the landlord of such land is hereby required to allow such deduction and payment"

" " line 5, *After* "every such" *omit* "tenant or"—and *after* "occupier" *insert* "sub-tenant or mesne tenant"

" " 10, *After* "enable any" *omit* "tenant or"—and *after* "occupier" *insert* "or tenant"

Page 59. Clause 122, line 8, *After* "the" *insert* "and the said several sums so rated and assessed shall be charged on the land so drained or improved, in preference to and with priority over all incumbrances thereon: Provided nevertheless, That any quit-rent or chief-rent, or other incumbrance thereon, previous to the date of the final award hereinbefore mentioned, shall have priority to such sums of money so rated or assessed, to the extent of the value of such land before the improvements were effected, but no further; and"

Page 67. Clause 144, line 35, *After* "in" *omit* "and for" and *insert* "the division of"

Page 71, Clause 154, line 38, *After* "as" *omit* "the" and *insert* "such"

" " 39, *Before* "Justices" *omit* "Justice or"

" " 40, *After* "such" *omit* "Justice or"

" " 41, *After* "Peace" *omit* "is and"—and *after* "if" *omit* "he or"

" " 43, *After* "as" *omit* "the Justice or" and *insert* "such"

" " line last, *Before* "Justices" *insert* "said"

Page 72, " line 2, *Before* "Justices" *insert* "said"

" Clause 157, line 26, *After* "thereof" *insert* "and should the Directors or Managers of any canal in Ireland be dissatisfied with the decision of the Commissioners in respect to any work proposed to be made by the said Commissioners, and which work, in the opinion of such Directors and Managers, shall be injurious to navigation, or in respect of the adequacy of the provisions proposed to be made for the necessary supply of water to any canal, it shall be lawful for such Managers and Directors to appeal against such decision to the Assistant Barrister, and a jury, in the same manner and under and subject to the same restrictions and provisions as appeals are by this Act directed to be made by persons dissatisfied with the adjudication of the Commissioners, in respect

respect of any compensation awarded for the value of or damage done to any land under the provisions of this Act."

73. *After* Clause 159, *insert* the following Clause :—

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"And be it Enacted, That wheresoever throughout this Act any act, matter or thing may be directed to be done at the Petty Sessions for the district wherein any place may be situate, the same shall and may be done at the Petty Sessions for the next adjoining district, in any case when such place shall not be included in any such district."

73. Clause 160, line 24, *After* "partnership" *insert* "and the expression 'Chief Rent' shall extend to and include all Rent or Rents reserved upon or payable out of or in respect of the estate or interest of any person being a proprietor within the meaning of this Act, or any estate or interest paramount thereto;"

AMENDMENTS

TO BE PROPOSED

BY LORD ELIOT,

In Committee on the "Bill to promote the Drainage of Lands, and Improvement of Navigation and Water-power in connexion with such Drainage, in Ireland."

June 1842.

0.72.

Under 1oz.

A

B I L L

FOR

Regulating the Priorities of Monies authorized to be charged on a Fund, called "The London Bridge Approaches Fund."

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS by an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled, "An Act for improving the Approaches to London Bridge," it was enacted, that it should be lawful for the Mayor, Aldermen and Commons of the City of London, to cause such spacious and convenient Streets, Ways, Passages and Places to be designed, laid out, opened, widened and made for making convenient and suitable Approaches to the new Bridge, called "London Bridge," with branches and communications thereto, as therein is mentioned; and that for the purposes aforesaid, it should be lawful for the said Mayor, Aldermen and Commons to borrow any sum or sums of money, not exceeding in the whole the sum of One million Pounds, upon the credit of the Fund created by the now reciting Act as therein is mentioned; and that the Fund created by the now reciting Act should be charged (subject to any mortgage or mortgages to be made to the Solicitor of his Majesty's Treasury as therein mentioned), with the annuities which should be secured by the bond or bonds to be executed as therein directed for securing the repayment of the sum or sums of money which should be so borrowed; and it was thereby further enacted, that, for providing a Fund for the purposes of the now reciting Act, after the Fifth day of July One thousand eight hundred and Thirty-seven, when the imposition of Sixpence for every chaldron or ton of Coals or Culm made and continued as in the Act is mentioned would cease, a like imposition, rate or duty of Sixpence for every such chaldron of Coals

Preamble: 10 Geo. 4, c. 136.

and Culm and Small Coal imported into the Port of London or the River Thames within the Liberty of the said City should be and was thereby made payable for the term of Twenty-one Years, to be computed from the said Fifth day of July One thousand eight hundred and Thirty-seven, unless the sums of money charged thereon should be sooner paid off and discharged, and in the same manner in all respects as the said imposition, rate or duty of Sixpence was then payable; and it was thereby further enacted, that when and so soon as all the said principal sums raised, and all the annuities charged on the Fund, called "The Orphans' Fund," should have been paid off and discharged, then the imposition, rate or duty of Four-pence for metage per chaldron upon Coals and Culm granted to the said Mayor and Commonalty and Citizens by the Act of the fifth and sixth year of the reign of King WILLIAM and Queen MARY should be appropriated to and form part of the Fund created by the now reciting Act for the purposes thereof, until the sums of money charged thereon should be paid off and discharged:

11 Geo. 4, c. 69.

And whereas by an Act passed in the eleventh year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to make further Provision for defraying the Expenses of making the Approaches to London Bridge and the Removal of Fleet Market," it was (amongst other things) enacted, that all the funds which before and at the time of the passing of the said recited Act of the tenth year of the reign of his late Majesty King GEORGE the Fourth constituted and formed the Fund, called "The Orphans' Fund," including the duty of Four Shillings per tun upon Wine imported into the Port of London or the members thereof, by way of merchandize; and the sum of Two Shillings and Sixpence to be paid by every apprentice at the time of his binding to any master who was a member of any of the respective Companies within the City of London and the Liberties thereof; and the sum of Five Shillings to be paid by every person admitted to be a freeman of the City of London at the time of his admission; and also all the aqueducts and right of bringing and conveying water, and all the improvements thereof, and rents, profits and benefits which might arise therefrom; and also the several annual sums of Eight thousand Pounds, Two thousand Pounds and One thousand five hundred Pounds respectively charged by several Acts therein mentioned upon the estates and revenues of the Mayor and Commonalty and Citizens of the City of London; should, from and after the passing of the said recited Act of the tenth year of the reign of his said late Majesty King GEORGE the Fourth, be held chargeable with the raising and paying off the capital sum of One million Pounds, with interest thereon, allowed to be raised under the provisions of the said before recited Act for executing the improvement of the said Approaches, in addition to the capital debt remaining charged

charged thereon before the passing of the said Act; and all such several and respective funds as were not permanent should, after all the principal sums raised and borrowed, and all the annuities charged upon the said Fund, called "The Orphans' Fund," and then due and owing, had been paid off and discharged, be continued, and the whole thereof be applicable to the purposes of the said Act of the tenth year of the reign of his late Majesty King GEORGE the Fourth, and of the now reciting Act, until the sums charged and to be charged thereon by virtue of the same Acts respectively should be paid off; and it was further enacted, that it should be lawful for the said Mayor, Aldermen and Commons, at any time or times after the passing of the now reciting Act, to borrow and raise any sum or sums of money, not exceeding in the whole the sum of Two hundred and fifty thousand Pounds, upon the credit of the Fund created for improving the Approaches to London Bridge as aforesaid:

And whereas by an Act passed in the first and second year of the reign of Her present Majesty, intituled, "An Act for improving the Site of the Royal Exchange in the City of London, and the Avenues adjoining thereto," it was enacted, that for the purposes of that Act it should be lawful for the said Mayor, Aldermen and Commons to borrow and raise any sum or sums of money, not exceeding in the whole the sum of One hundred and fifty thousand Pounds, upon the credit of the Fund created for improving the Approaches to London Bridge by the said respective Acts of the tenth and eleventh years of the reign of his late Majesty King GEORGE the Fourth as aforesaid; and it was further enacted, that the Fund created for improving the Approaches to London Bridge as aforesaid should be and the same was thereby charged and made chargeable with the annuities which should be secured by the bond or bonds to be executed as therein directed for securing the repayment of any sum or sums of money which might be borrowed as therein mentioned; and it was thereby further enacted, that all such several and respective funds constituting or forming part of the said Fund created for improving the Approaches to London Bridge as were not permanent, after all the principal sums raised and borrowed, and all the annuities charged upon the said Fund and then due, had been paid off, should be and were thereby continued until the annuities and sums charged and to be charged thereon by virtue of the now reciting Act should be paid off; provided, nevertheless, that the rates or duties which by the said Act of the tenth year of the reign of King GEORGE the Fourth were continued for a term which would expire on the Fifth day of July One thousand eight hundred and Fifty-eight, unless the sums charged thereon should be sooner paid off and discharged, should not be continued by the now reciting Act beyond the said Fifth day of July One thousand eight hundred and Fifty-eight:

1 & 2 Vict. c. 100.

2 & 3 Vict. c. 80.

And whereas by an Act passed in the second and third year of the reign of Her present Majesty, intituled, "An Act to empower the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings to raise a Sum of Money for making additional Thoroughfares in the Metropolis," after reciting (amongst other things) that it had been proposed to open such convenient thoroughfares as therein is mentioned, it was enacted, that the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, should be appointed Commissioners for executing and completing the several alterations and improvements hereinbefore mentioned, and for carrying the purposes of the Act now in recital into execution; and that for providing a Fund for the purposes of the Act now in recital, it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, from time to time, with the consent of the Lord High Treasurer of the United Kingdom of Great Britain and Ireland, or of the Commissioners for executing the office of Lord High Treasurer of the said United Kingdom, or any Three or more of them, to charge the funds thereinafter mentioned, and made subject as thereinafter mentioned, with the payment of any sum or sums of money, not exceeding in the whole the sum of Two hundred thousand Pounds, together with interest on the sum or sums to be charged from the time of charging the same, not exceeding Five Pounds per centum per annum, to be payable half-yearly; and that the said Fund, called "The Orphans' Fund," and the Fund, called "The London Bridge Approaches Fund," and all and singular the funds, duties, impositions and revenues, created, constituted, imposed or continued by the said therein-recited Acts of the tenth year of the reign of King GEORGE the Fourth, the eleventh year of the reign of King GEORGE the Fourth, and the first and second year of the reign of Her present Majesty, should be the Fund to be charged by Her Majesty's said Commissioners, and should be applicable, after the sums already borrowed thereon should have been paid off, to the payment of all such monies as might be so charged thereon by the Commissioners for executing the Act now in recital, and the interest thereof, until the sum or sums, and interest to be charged thereon as last aforesaid, should be paid off; and that the funds so to be charged as aforesaid should (subject as aforesaid) be paid and applied in satisfaction and discharge of all monies to be charged thereon by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings as aforesaid, and the interest thereof, in such manner and from time to time as the same should be received, and as the said Commissioners for executing the Act now in recital should direct; and that for the purposes of the Act now in recital, it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, by and with the consent of the Lord High

High Treasurer, or of the Commissioners of Her Majesty's Treasury for the time being, to borrow and raise any sum or sums of money, not exceeding in the whole the sum of Two hundred thousand Pounds, upon the credit of the said monies and interest so charged, and thereupon to assign and dispose of the principal monies and interest, which the said Commissioners were thereby authorized to charge as aforesaid, in such shares, and by way of debenture or otherwise, and with such priorities, and in such manner as the said Commissioners should think fit, as a security for the monies so to be borrowed; and that it should be lawful for the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being, or any Three or more of them, if he or they should think it expedient, from time to time to lend out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, any sum or sums of money for the purposes of the Act now in recital, not exceeding the sum of Two hundred thousand Pounds, on the credit of the said monies which the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings were thereby authorized to charge, upon such security being given for the repayment thereof, with such rate of interest, not exceeding Five Pounds per centum per annum, and at such times and manner as the said Lord High Treasurer or Commissioners, or any Three or more of them, should direct; and that such parts of the Fund thereinbefore made applicable to the purposes of the Act now in recital, and which were thereby authorized to be charged, as were not permanent, after all the principal sums raised and borrowed, and all the annuities charged upon the said Fund and then due, had been paid off, should be continued in all respects as was directed by the said Act passed in the tenth year of the reign of his Majesty King GEORGE the Fourth, until the sums charged and to be charged thereon by virtue of the Act now in recital should be paid off; and in the Act now in recital was contained a proviso, that the rates or duties which by the said Act of the tenth year of the reign of King GEORGE the Fourth were continued for a term which would expire on the said Fifth day of July One thousand eight hundred and Fifty-eight, unless the sums of money charged thereon should be sooner paid off and discharged, should not be continued beyond the said Fifth day of July One thousand eight hundred and Fifty-eight:

And whereas by an Act passed in the third and fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods, Forests, Land Revenues, Works and Buildings to make additional Thoroughfares in the Metropolis," it was enacted, that it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time 3 & 4 Vict. c. 87.

being to make the several new streets, improvements and alterations thereinbefore mentioned, and to carry the purposes of the Act now in recital into execution, in manner thereinafter mentioned; and that the said funds by the said Act lastly hereinbefore recited, authorized to be charged as aforesaid, should be the several duties on Coals imported into the Port of London, and brought by inland conveyance; the duty on Wine; the several annual sums charged on the Revenues of the City of London, amounting to the annual sum of Eleven thousand five hundred Pounds; the Fees payable on the admission of freemen, and on the binding of apprentices, and for aqueducts; and that all and every the monies by the said lastly hereinbefore recited Act authorized to be charged and borrowed should, subject to the application thereof so directed to be made by the said last-mentioned Act, be applied by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, to the carrying into effect the purposes of the Act now in recital; and that for the purposes of the Act now in recital, and the said Act passed in the second and third year of Her Majesty's reign, the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being should be constituted a Corporation, by the name and style of "The Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings;" and that it should be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, with the consent of the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being (in addition to the sum of Two hundred thousand Pounds, by the said recited Act of the second and third year of the reign of Her present Majesty, authorized to be raised as aforesaid), to charge and raise for the purposes of the Act now in recital any further sum or sums of money, not exceeding in the whole the sum of One hundred thousand Pounds, upon the credit of the monies and interest in the said Act of the second and third year of the reign of Her present Majesty mentioned, and thereinbefore specified as the funds by the said lastly hereinbefore recited Act authorized to be charged; and that all such parts of the funds by the said last-mentioned Act authorized to be charged with the said sum of Two hundred thousand Pounds as were not permanent, and which by the same Act were directed to be continued, until the sums charged and to be charged thereon by virtue of the same Act should be paid off, should be continued in all respects as directed by the said last-mentioned Act until the further sum to be charged thereon by virtue of the Act now in recital should be paid off; and it was by the Act now in recital enacted, that it should be lawful for the Lord High Treasurer or the Commissioners of Her Majesty's Treasury for the time being, or any Three or more of them, if he or they should think it expedient, to authorize and direct the Commissioners for issuing Exchequer Bills for Public Works

Works to advance and lend to the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on the credit of the said sum of Three hundred thousand Pounds (which the said Commissioners were as aforesaid authorized to charge), any sum or sums of money in Exchequer Bills, not exceeding the said sum of Three hundred thousand Pounds, as in the said Act is mentioned:

And whereas by another Act passed in the said third and fourth year of the reign of Her present Majesty, intituled, "An Act to continue for Four Years, from the Fifth day of July One thousand eight hundred and Fifty-eight, the Duties now levied on Coal and Wines imported into the Port of London," it was enacted, that all and every the rates, impositions and duties on Coal imported into the Port of London or the River Thames within the Liberty of the said City, which by the said hereinbefore recited Act of the tenth year of the reign of King GEORGE the Fourth were continued for a term which would expire on the Fifth day of July One thousand eight hundred and Fifty-eight, should be continued for a further term of Four Years, from the Fifth day of July One thousand eight hundred and Fifty-eight: 3 & 4 Vict. c. 131.

And whereas by an Act passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods to make a new Street from Coventry-street, Piccadilly, to Long-acre, and for other Improvements in the Metropolis," it was enacted, that it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, and they were thereby authorized and empowered to make, form and complete the new street therein mentioned, and that for the purposes of the Act now in recital, and of the said Act of the second and third year of the reign of Her present Majesty, and of all matters and things thereby authorized to be done under the authority of the Act now in recital, or of any other Act, the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being should be and they were thereby constituted a Corporation, by the name and style of "The Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings;" and that for providing a fund for the purposes of the Act now in recital, it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, from time to time, with the consent of the Lord High Treasurer, or of the Commissioners for executing the office of Lord High Treasurer of the said United Kingdom, or any Three or more of them, to charge the funds thereinafter mentioned, and made subject, as thereinafter mentioned, with the payment of any sum or sums of money, not exceeding in the whole the sum of Two hundred 4 Vict. c. 12.

and fourteen thousand Pounds, together with interest on the sum or sums to be charged from the time of charging the same, at such rate as should be approved of by the said Lord High Treasurer, or the Commissioners of Her Majesty's Treasury for the time being, to be payable half-yearly, such sum of Two hundred and fourteen thousand Pounds being in addition to the several sums, amounting together to the sum of Three hundred thousand Pounds, which the said Commissioners were so as aforesaid authorized to charge for the purposes thereinbefore mentioned; and that the several funds which by the said Acts hereinbefore mentioned the said Commissioners were authorized to charge as aforesaid should be the funds to be charged by the said Commissioners for the purposes of the Act now in recital under the power aforesaid; and such several funds should, subject as aforesaid, be applicable to the payment of all such monies as should be so charged thereon by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and the interest thereof; and that it should be lawful for the said Lord High Treasurer, or Commissioners of Her Majesty's Treasury for the time being, or any Three or more of them, if he or they should think it expedient, to direct the Commissioners for issuing Exchequer Bills for Public Works to advance and lend to the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, on the credit of the said sum of Two hundred and fourteen thousand Pounds which the said Commissioners were by the Act now in recital authorized to charge as aforesaid, any sum or sums of money in Exchequer Bills, not exceeding the sum of Two hundred and fourteen thousand Pounds; and that the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings should and they were thereby authorized, by and with the consent of the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury, or any Three or more of them, from time to time to appropriate and pay out of the monies to be borrowed and raised by the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, under the powers and provisions of the Act now in recital, to the Commissioners named and appointed in and by an Act of the third and fourth year of the reign of Her present Majesty, intituled, "An Act for opening a street to Clerkenwell-green, in the County of Middlesex, in Continuation of the new Street from Farringdon-street, in the City of London," any sum or sums of money, not exceeding in the whole the sum of Twenty-five thousand Pounds, to be by the said last-mentioned Commissioners applied towards the expense of making, forming and completing the said street to Clerkenwell-green as aforesaid;

4 & 5 Vict. c. 40.

And whereas by an Act passed in the fourth and fifth year of the reign of Her present Majesty, intituled, "An Act to empower the Commissioners of Her Majesty's Woods to raise Money for certain Improvements

Improvements in the Metropolis, on the Security of the Land Revenues of the Crown, within the County of Middlesex and City of London," it was enacted, that it should be lawful for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, with the consent of the Lord High Treasurer, or of the Commissioners for executing the office of Lord High Treasurer of the United Kingdom, or any Three or more of them, to borrow and take up, at any rate of interest not exceeding Five Pounds per centum per annum, and on such terms and conditions as they should think proper, such sum or sums of money as they, the said Commissioners, with such consent as aforesaid, should judge necessary, for the purpose of carrying into effect and completing the said several improvements and new streets so authorized and directed to be made by them by the several Acts thereinbefore and hereinbefore recited, on mortgage of all or any part or parts of the houses, buildings, lands, tenements and hereditaments of or belonging to Her Majesty, Her heirs and successors, within the County of Middlesex and City of London, or either of them (other than Royal Palaces and Parks), and to secure the repayment of the sum or sums so to be borrowed, or any part or parts thereof, with interest for the same, in manner therein mentioned:

And whereas the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings have, in pursuance of the aforesaid power in that behalf, raised by mortgage of the said Land Revenues of the Crown, several sums of money, amounting in the whole to the sum of Five hundred thousand Pounds, from the Trustees of the Society for Equitable Assurances on Lives and Survivorships at the rate of Three Pounds Fifteen Shillings per centum per annum interest, but no actual charge of any of the said sums of Two hundred thousand Pounds, One hundred thousand Pounds and Two hundred and fourteen thousand Pounds, so authorized to be raised by the said Commissioners as aforesaid, nor of any part thereof, has yet been made:

And whereas by an Act passed in the present Session of Parliament, intituled, "An Act for further extending the Approaches to London Bridge and the Avenues adjoining to the Royal Exchange, in the City of London, and for amending the Acts relating thereto respectively," it is (amongst other things) enacted, that for the purposes of an Act therein recited of the first and second year of the reign of Her present Majesty, intituled, "An Act for improving the Site of the Royal Exchange, in the City of London, and the Avenues adjoining thereto," and for the purposes of the Act now in recital, so far as relates to the improvement of the said avenues, it shall be lawful for the Mayor, Aldermen and Commons of the City of London, in Common Council assembled, 6 Vict. c.

assembled, to borrow any sum or sums of money, not exceeding in the whole the sum of Forty thousand Pounds, upon the credit of the Fund created, increased and continued by the several therein and hereinbefore recited Acts, at such rate of interest as shall be approved of by the Lord High Treasurer, or the Commissioners of Her Majesty's Treasury, or any Three of them; and further, that the said Mayor, Aldermen and Commons, in Common Council assembled, shall, with the consent of the Lord High Treasurer, or Commissioners of Her Majesty's Treasury, or any Three or more of them, borrow any sum or sums of money, not exceeding in the whole the sum of Twenty-five thousand Pounds, upon the credit of the Fund created, increased and continued by the several therein and hereinbefore recited Acts, at such rate of interest as shall be approved of by the said Lord High Treasurer, or Commissioners of Her Majesty's Treasury, or any Three of them, and such monies so to be raised shall be paid into the Chamber of the City of London by such instalments, in such proportions, at such times and in such manner as the said Mayor, Aldermen and Commons, in Common Council assembled, shall direct; and out of such sum or sums so to be raised as aforesaid, the said Mayor, Aldermen and Commons, in Common Council assembled, shall and they are thereby authorized, by and with such consent of the said Lord High Treasurer, or Commissioners of Her Majesty's Treasury, or any Three of them as aforesaid, from time to time to pay to the Commissioners named in and appointed by the said Act of the fourth year of the reign of Her present Majesty, intituled, "An Act for opening a Street to Clerkenwell-green, in the County of Middlesex, in Continuation of the new Street from Farringdon-street, in the City of London," any sum or sums of money, not exceeding in the whole the said sum of Twenty-five thousand Pounds, to be by such last-mentioned Commissioners applied towards the expense of making, forming and completing the said street to Clerkenwell-green as aforesaid, and as in the said Act now in recital is mentioned; and that all such several and respective funds, constituting or forming part of the said Fund created, increased and continued as aforesaid, as are not permanent, after all the principal sums raised and borrowed, and all the annuities charged upon the said Fund, and now due and owing, shall have been paid off and discharged, shall be and are thereby continued until the annuities and sums charged and to be charged thereon by virtue of the Act now in recital, or the said recited Acts of the second and third and of the third and fourth years respectively of the reign of Her present Majesty, or of the said Act passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable Her Majesty's Commissioners of Woods to make a new Street from Coventry-street, Piccadilly, to Long-acre, and for other Improvements in the Metropolis," shall be paid off and discharged; and in the Act now in recital is contained a proviso, that the

rates

rates or duties which by the said Act of the third and fourth year of the reign of Her present Majesty were continued for a term which would expire on the Fifth day of July One thousand eight hundred and Sixty-two, unless the sums of money charged thereon should be sooner paid off, shall not be continued by the Act now in recital beyond the said Fifth day of July One thousand eight hundred and Sixty-two; and that as far as regards the Fund created, increased and continued as aforesaid, nothing in the Act now in recital contained shall give priority of charge to the before-mentioned several sums of Forty thousand Pounds and Twenty-five thousand Pounds thereinbefore authorized to be raised as aforesaid, or either of them, or the interest thereof respectively, over any sum or sums of money, and interest, already charged or authorized to be charged on the said Fund by any Act or Acts of Parliament already passed and now in force:

And whereas, inasmuch as the said Mayor, Aldermen and Commons of the City of London have been so as aforesaid authorized by the said last-recited Act to raise the said sum of Twenty-five thousand Pounds, for the purpose of being applied towards the making, forming and completing the said street to Clerkenwell-green, in continuation of the said new street from Farringdon-street in the City of London, it is expedient that the power given to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, to raise the sum of Two hundred and fourteen thousand Pounds, should (as regards the sum of Twenty-five thousand Pounds, part thereof authorized to be raised for the same purpose by the said Act of the fourth year of the reign of Her present Majesty) be repealed:

And whereas, in order the more effectually to enable the said Mayor, Aldermen and Commons to borrow and take up the said two several sums of Forty thousand Pounds and Twenty-five thousand Pounds, and interest, by the said last-recited Act authorized to be raised, it is expedient that the said sums of Forty thousand Pounds and Twenty-five thousand Pounds, and interest, and the securities for the same, should have priority over the said sums so authorized to be raised by the said Commissioners as aforesaid, and that further provision should be made for the raising the said sums of money so authorized to be charged by the said Commissioners as hereinafter is provided;

May it therefore please Your MAJESTY,

That it may be Enacted, **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said recited Act of the fourth year of the reign of Her present Majesty as authorizes or enables the said Commissioners of Her

1. Act 4 Vict. c. 12, partially repealed.

Majesty's Woods, Forests, Land Revenues, Works and Buildings, to charge or raise the said sum of Two hundred and fourteen thousand Pounds and interest, and the applying any sum not exceeding Twenty-five thousand Pounds, in part thereof for the purpose of making, forming and completing the said street to Clerkenwell-green as aforesaid, shall be and the same is hereby repealed.

2. Commissioners of Woods empowered to charge 189,000 *l.* in lieu of 214,000 *l.*

And be it Enacted, That the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings shall have power, in lieu of the said sum of Two hundred and fourteen thousand Pounds, to charge the sum of *One hundred and eighty-nine thousand Pounds* and interest, for the purposes and in manner in all respects and with such consent as is by the said Act of the fourth year of the reign of Her present Majesty provided with regard to the said sum of Two hundred and fourteen thousand Pounds by the said Act authorized to be charged, except as regards the application of the said sum of Twenty-five thousand Pounds towards such improvement as aforesaid, and in all respects as if the power to charge the said sum of Two hundred and fourteen thousand Pounds and interest had not been hereby repealed, and the sum by the said last-mentioned Act authorized to be charged had been the sum of *One hundred and eighty-nine thousand Pounds* and interest, instead of the sum of Two hundred and fourteen thousand Pounds and interest.

3. Sums authorized to be raised by the Corporation of London, to have priority over Sums authorized to be raised by the Commissioners of Woods.

And be it Enacted, That the said several sums of Forty thousand Pounds and Twenty-five thousand Pounds so authorized to be raised by the said Mayor, Aldermen and Commons as aforesaid, and the interest thereof, and the bond or bonds and other securities authorized or required to be given by the said Mayor, Aldermen and Commons for securing the repayment of the same respectively, shall have priority over the said sums of Two hundred thousand Pounds and One hundred thousand Pounds so as aforesaid authorized to be charged, and the said sum of *One hundred and eighty-nine thousand Pounds* by this Act authorized to be charged by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, and the interest thereon, and any securities or charges to be given or made in respect thereof, or for securing the same or any part thereof respectively, any thing in any of the said in part recited Acts contained to the contrary notwithstanding.

4. Condition of priority.

Provided always, and be it Enacted, That if the said sum of Twenty-five thousand Pounds so authorized to be raised and paid by the said Mayor, Aldermen and Commons, for the purpose of being applied towards the formation of the said street to Clerkenwell-green as aforesaid, shall not be raised and paid by them to the Commissioners appointed by the said Act, authorizing the making of the said street within

within calendar Months after the passing of this Act, then the priority hereby given to the said several sums of Forty thousand Pounds and Twenty-five thousand Pounds so authorized to be raised by the said Mayor, Aldermen and Commons as aforesaid, shall, as to both of the said sums and the interest thereof, cease and be determined; and in that case the power and authority given to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, by the said recited Act of the fourth year of Her Majesty's reign, to charge or raise the full sum of Two hundred and fourteen thousand Pounds and interest, and to apply any sum, not exceeding Twenty-five thousand Pounds, part thereof for the purpose of making, forming and completing the said street to Clerkenwell-green as aforesaid, shall be revived and be in full force and virtue as if this Act had not been passed.

5. Commissioners of Woods to execute an immediate charge upon the Fund made chargeable.

And be it Enacted, That the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings shall, immediately after the *passing of this Act*, by some instrument or writing under their common seal (and which instrument or writing shall be exempt from any ad valorem or other stamp duty), with the consent of the Lord High Treasurer aforesaid, or of the Commissioners of Her Majesty's Treasury, or any Three or more of them, charge all and singular the said Fund created, increased and continued as aforesaid, and which they were so as aforesaid authorized to charge with such sums as aforesaid, with the payment to them, the said Commissioners of Her Majesty's Woods, Forests and Land Revenues, Works and Buildings, of the sums of Two hundred thousand Pounds and One hundred thousand Pounds, which they the said Commissioners were so authorized to charge as aforesaid, and also with the sum of *One hundred and eighty-nine thousand Pounds* hereby authorized to be charged, in lieu of the said sum of Two hundred and fourteen thousand Pounds which they were so authorized to charge as aforesaid, together with interest thereon after such rate, not exceeding Five Pounds per centum per annum, as the said Lord High Treasurer, or the said Commissioners of Her Majesty's Treasury, or any Three or more of them, shall direct; and such interest to commence and be payable, in respect of the said sums of Two hundred thousand Pounds and One hundred thousand Pounds, as from the times when, in pursuance of the aforesaid Acts in that behalf, the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings were with such consent as aforesaid authorized to charge the said sums of Two hundred thousand Pounds and One hundred thousand Pounds respectively, and as regards the said sum of *One hundred and eighty-nine thousand Pounds* hereby authorized to be charged from the time when the aforesaid sum of Two hundred and fourteen thousand Pounds was authorized to be charged; and that all and singular the

Fund so to be charged as aforesaid shall (after satisfaction of monies having priority of the said sums of Two hundred thousand Pounds, One hundred thousand Pounds, and *One hundred and eighty-nine thousand Pounds*) be paid to the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being, in and towards the discharge of the said sums of Two hundred thousand Pounds, One hundred thousand Pounds, and *One hundred and eighty-nine thousand Pounds*, and interest so to be charged as aforesaid, and that the said annual sum of Eleven thousand five hundred Pounds, fees on the admission of freemen, binding apprentices, and payable in respect of aqueducts, shall, until the said Fifth day of July One thousand eight hundred and Sixty-two, continue charged with the payment of such principal sums and interest, and such of them as may not be permanent shall continue until the said Fifth day of July One thousand eight hundred and Sixty-two, unless such principal monies and interest shall be sooner paid off.

6. Commissioners of Woods to continue incorporated.

And be it Enacted, That the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings for the time being shall continue and be incorporated for the purposes of this Act, and that the payment of the said monies, amounting together to the sum of Four hundred and eighty-nine thousand Pounds, so to be charged by them as aforesaid, and the interest thereon, either into the Bank of England or otherwise, as the said Commissioners shall direct, shall be a sufficient discharge to the person or persons or body paying the same.

7. Application of monies to be charged by the Commissioners.

And be it Enacted, That the said several sums of money, amounting together to the said sum of Four hundred and eighty-nine thousand Pounds, which the said Commissioners are hereby authorized to charge as aforesaid, and the interest thereon, shall (subject to the advances thereout by the said Act of the fourth year of Her Majesty's reign, authorized to be made in aid of the costs and expenses of making, forming and completing a street between Southwark and Westminster Bridge, and a communication between the Houses of Parliament and Buckingham Palace, in case the Lord High Treasurer, or Commissioners of Her Majesty's Treasury, or any Three of them, shall in the exercise of their discretion consent to such advances being made) be paid and applied by the said Commissioners from time to time, when and as they shall receive the same, in payment and discharge of the said several sums, amounting together to the sum of Five hundred thousand Pounds and interest so as aforesaid, charged by them on the Land Revenues of the Crown, and of any other sum or sums of money (if any) which the said Commissioners may have charged or may charge on the same Land Revenues, in pursuance of the power so given to them as aforesaid by the said Act of the fourth and fifth year

of

of the reign of Her present Majesty; and that, subject as aforesaid, the said monies so to be charged as aforesaid, and the interest thereon or the surplus thereof respectively, shall be applicable for the purposes of the said recited Acts, and for the purposes for which the same monies and interest were authorized to be charged as aforesaid, and in all respects as if this Act had not passed; and further, that, subject to the satisfying and discharging all monies so as aforesaid borrowed or to be borrowed on the security of the Land Revenues as aforesaid, any sum or sums of money may be borrowed on the security of such monies and interest as by any of the aforesaid Acts is provided, and in all respects whatsoever as if this Act had not passed.

8. Act may be altered this Session.

And be it Enacted, That this Act or any part thereof may be altered, varied or repealed by any Act or Acts to be passed in the present Session of Parliament.

9. Public Act.

And be it Enacted, That this Act shall be deemed to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and others.

London Bridge Approaches Fund.

A

B I L L

For regulating the Priorities of Monies authorized to be charged on a Fund, called "The London Bridge Approaches Fund."

(*Prepared and brought in by*
The Earl of Lincoln and Sir Thomas Fremantle.)

Ordered, by The House of Commons, *to be Printed,*
27 *June* 1842.

375.

Under 3 oz.

(Ireland.)

A

B I L L

[AS AMENDED ON SECOND RE-COMMITMENT]

To amend an Act of the First and Second Years of his late Majesty King WILLIAM the Fourth, to empower Landed Proprietors in Ireland to sink, embank and remove Obstructions in Rivers.

[N. B.—*The Clauses marked* (B.) *and* (C.) *were added by the Committee*; *Clauses* (D.), (E.) *and* (F.) *on Re-Commitment*; *and Clause* (G.) *on Second Re-Commitment.*]

WHEREAS an Act was passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to empower Landed Proprietors in Ireland to sink, embank and remove Obstructions in Rivers:" Preamble: 1 & 2 Will. 4, c. 57.

And whereas it is expedient to amend the said Act in certain respects;

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, no Commission constituting any persons a Joint Stock Company for the purposes of and under the provisions of the said Act shall issue until it be proved, to the satisfaction of the Lord Lieutenant, or other Chief Governor or Governors of Ireland, that a sum equal to One-tenth part of the amount of the estimate to be made and subscribed pursuant to the provisions of the said Act has been deposited with the Bank of Ireland, in the names of Three or more solvent persons, in trust for the purposes of the said undertaking, in case

1. CLAUSE (B.) No Commission shall issue until One-tenth part of amount subscribed shall be deposited.

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case such Commission shall issue, and that not less than Three-fourths in number of the subscribers shall have paid up their shares of such deposit.

2. CLAUSE (D.) Calls may be recovered by action.

And be it Enacted, That if at the time appointed by any Joint Stock Company, which may be hereafter constituted under the provisions of the said Act, any shareholder shall fail to pay the amount of any call made at any general or special meeting, the Company may sue such shareholder for the amount of such call in any court of law or equity having competent jurisdiction, in the name of the person who shall be for the time being the Chairman of the Committee of Management of the said Company, or in the name of any Three members of the said Company, as the nominal plaintiff or plaintiffs, and on behalf of such Company, in like manner and subject to the like provisions and regulations as in the case of other suits or actions brought by or on behalf of any such Company, and the said Company may recover the amount of such call with interest, at the rate of Six Pounds per centum per annum, from the day upon which such call may have been payable; and that in any such action to be brought against any shareholder to recover the money due for any call, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of One share or more in the Company (stating the number of shares), and is indebted in the sum of money to which the calls in arrear shall amount in respect of One call or more upon One share or more (stating the number and amount of each of such calls), whereby an action hath accrued by virtue of this Act: and on the trial of such action it shall be sufficient to prove that the defendant, at the time of making such call, was a holder of One share or more in the Company, and that such call was in fact made, and notice thereof in writing under the hand of the Clerk or Treasurer of the said Company given, or sent by the post, to or left at the usual place of abode of the defendant.

3. CLAUSE (E.) Power to make surveys preparatory to applying for a Commission under 1 & 2 Will. 4, c. 57.

And be it Enacted, That it shall and may be lawful for any engineer appointed for the purpose of making a survey or surveys preliminary to the making of any application for a Commission under said recited Act, and for his servants and attendants, at all reasonable times, to enter in and upon the grounds and lands of all persons whatsoever: provided that he or they shall make reasonable compensation to the occupier or occupiers of such lands respectively, for any damage or injury which may be occasioned by reason of the said engineer or his servants or attendants entering thereupon; and it shall and may be lawful for the Justices presiding at the nearest petty sessions, upon their summons, without information, to hear and determine all applications and complaints in reference to such damage and injury, and for that purpose to examine upon oath the parties or either of them, and

Justices to award compensation for damage.

such

such witnesses as they or either of them shall produce, which oath the said Justices are hereby empowered to administer, and to dismiss said complaint, or make such order for payment of such sum to such complainant or complainants by said party or parties so summoned, as to them shall seem just and reasonable as and for such compensation, and as to the costs of such inquiry to be paid by the party against whom such order shall be made, and the same shall be recovered and levied as any penalty under the said recited Act may be recovered and levied.

4. Works not exceeding £.500 may be executed by virtue of Grand Jury Presentment, under 1 & 2 Will. 4, c. 57.

AND whereas it was by the said recited Act provided, that where the clearing, sinking, banking or altering the course of any river or stream might be accomplished at or for a sum not exceeding Two hundred Pounds, it should be lawful for the Grand Jury of any county through or on the borders of which such river or stream may flow, on the application of any person having in Lands bordered or intersected by any such river or stream, a freehold estate of Fifty Acres at least, or a term of years of which Twenty-one shall then be unexpired in Lands of like extent, and who may be willing to advance the money required for, and desirous of undertaking the performance of, any such Work as aforesaid, to make a Presentment enabling him in that behalf; and divers provisions were by the said Act made in respect to such application and Presentment, and regulating the proceedings consequent thereon: And whereas it is expedient to authorize the execution of Works of greater extent by Presentment as aforesaid; BE it therefore Enacted, That the said recited provision shall apply and extend to cases where the amount of the expense of the proposed Works shall not exceed Five hundred Pounds, as fully and effectually, to all intents and purposes, as to Works, the expense whereof may not exceed the sum in the said Act limited.

5. Clause (C.) Lord Lieutenant to appoint Applotter in default of Owners and Occupiers.

And be it Enacted, That if, where any such Grand Jury Presentment as aforesaid shall hereafter be made, the owners or occupiers of lands bounded or intersected by any such river or stream as aforesaid, shall omit or neglect to meet and nominate and appoint applotters as by the said recited Act directed, or if the person appointed applotter shall refuse, omit, neglect or cease to act in or proceed with such applotment, it shall and may be lawful for the Grand Jury at any assizes, upon the application of the person named in such Grand Jury Presentment, to nominate and appoint some person, being an engineer or surveyor, who shall be thereupon authorized to make out and proceed with such applotment in like manner as is prescribed to and with the like powers as are conferred upon any person or persons appointed by the owners and occupiers under the said recited Act to make an applotment or survey thereof.

6. Obligation to Crown required by

AND whereas it was by the said recited Act enacted, that it might be lawful for the Lord Lieutenant, or other Chief Governor or Governors of

1 & 2 Will. 4, c. 57, dispensed with.

of Ireland, in certain cases, to grant to one or more person or persons, not exceeding Six, and not being a Joint Stock Company, a Commission constituting such person or persons an undertaker or undertakers, within the meaning of the said Act, for executing the Works by such Commission authorized; but it was by the said Act provided, that no such Commission should be granted to any person or persons (not being created a Joint Stock Company) until and unless such person or persons should previously enter into security by a writing obligatory to our Sovereign Lord the King, in such penal sum or sums of money as the Lord Lieutenant, or other Chief Governor or Governors of Ireland, shall direct (such sum not being less than the amount of the estimate of the expense of the whole Works proposed to be executed under the said Commission), binding himself or themselves, jointly and severally, to execute and perform, within a time to be limited in such writing obligatory, the said Works conformably to the plan and specification thereof previously to be made: AND whereas it is expedient to substitute in lieu of the said obligation to the Crown a bond to the Secretary for the time being of the Commissioners of Public Works in Ireland; BE it therefore Enacted, That, notwithstanding any thing in the said recited Act to the contrary, it shall not be necessary, in order to obtain such Commission as aforesaid, for any person or persons to enter into such security as aforesaid by writing obligatory to our Sovereign Lady the QUEEN, but that, in lieu thereof, such person or persons shall enter into a bond or obligation in writing to the Secretary for the time being of the said Commissioners of Public Works, together with a warrant of attorney, for confessing judgment thereon (the entering of which judgment shall be in the discretion of the said Commissioners), whereby the obligor or obligors therein named shall bind themselves, himself or herself, their, his or her executors or administrators in such penalty, not being less than the amount of the estimate of the expense of the whole Works proposed to be executed under the said Commission, to execute and perform, within a time to be limited in such writing obligatory, the said Works, conformably to the plan and specification thereof; and so often as any breach or default shall be made in the performance of all or any part of the condition of any bond or obligation which shall be entered into to the said Secretary under the provisions of this Act, it shall be

Bond to be sued upon.

lawful for the said Commissioners from time to time, at their discretion, to direct their solicitor for the time being to proceed against all or any of the obligors or obligor, his, her or their heirs, executors or administrators; and upon proof of any such breach or default, the Jury shall award such sum for damages and costs as they shall think fit, not exceeding the penalty of the said bond or obligation; and such sum so awarded, when levied, shall be paid into the Bank of Ireland, to the credit of the said Commissioners, to be applied by them, under the direction of the Lord Lieutenant, or other Chief Governor or Governors of Ireland, to the indemnification of any persons prejudiced by such

such breach or default, in such manner and proportions as he or they shall direct: Provided always, That the said Commissioners shall, and they are hereby authorized, at any time at their discretion, to direct against which of the obligors in any such bond, if there are more than one, proceedings shall be, from time to time, taken on any such bond or obligation, and by writing under their hands and seals, to be exhibited to the Barons of Her Majesty's Court of Exchequer in Dublin, to direct any such proceedings to be discontinued, quashed or abated, and the same shall thereupon be discontinued, quashed or abated.

7. Upon performance of the condition, the Bond to be cancelled.

And be it Enacted, That so soon as the work in respect of which any such bond or obligation shall have been made to the said Secretary, shall be completed, and the conditions thereof fully satisfied, to the satisfaction of the said Commissioners, it shall be lawful for the said Commissioners, and they are hereby required, upon the application of any obligor therein named, to certify in writing that the said condition has been performed, and upon production of such certificate to the proper officer of any of Her Majesty's Courts in Ireland in which judgment may have been entered upon such bond or obligation, satisfaction shall be entered upon the record of such judgment, and in case judgment shall not have been entered up thereupon, the said bond or obligation shall be delivered up by the party holding the same to such obligor to be cancelled accordingly.

8. Meeting of Landholders to be convened to appoint a Valuator in certain cases. 1 & 2 Will. 4, c. 57, s. 13.

And be it Enacted, That where after the issuing of a Commission creating a Joint Stock Company of undertakers under the said Act, any meeting of owners and occupiers has been heretofore or shall be hereafter summoned under the said recited Act by the Chief or Under Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland, for the purpose of appointing a person to act on behalf of such owners and occupiers in making a survey and valuation pursuant to the said recited Act, and such meeting has refused, neglected or omitted, or shall refuse, neglect or omit, to nominate and appoint a person for such purpose, it shall and may be lawful for such Chief or Under Secretary, upon the application of such Company, for the time being to summon another meeting of owners and occupiers for the like purpose; and it shall be lawful for such meeting to adjourn from time to time, so as no such adjournment shall be made to any day later than Three calendar Months from such first meeting under this Act; and notices of such meeting, or any adjournment thereof, shall be published and given as in the said recited Act directed; and any person nominated and appointed by such meeting, or any adjourned meeting held within the said period of Three Months, shall be invested with all such powers and may do all such acts as if such person had been nominated and appointed under and by virtue of said recited Act; and if any person so nominated and

appointed by any such meeting or otherwise on the part of such owners or occupiers under this or the said recited Act, shall die, or shall become incapable of acting in discharge of the several duties prescribed for such person by such recited Act, then it shall and may be lawful for such Chief or Under Secretary for the time being, upon the like application to summon a meeting of owners and occupiers, in like manner as in the said recited Act pointed out for the purpose of nominating and appointing another person in the place and stead of such person so dying or becoming incapable of acting as aforesaid; and such notice shall be published and given in manner pointed out by said recited Act; and such person so appointed shall be authorized to do all the acts and be thereby invested with all the powers prescribed and conferred by the said recited Act to and upon persons nominated and appointed to make such survey and valuation as aforesaid: Provided always, That in the case of any Company constituted a Joint Stock Company before the passing of this Act, no such meeting as aforesaid shall be summoned, until it shall be proved to the satisfaction of the Lord Lieutenant, or other Chief Governor or Governors of Ireland, that a sum equal to One-tenth part of the amount of the estimate made and subscribed for the purposes of the undertaking has been bonâ fide raised and paid into the hands of the Treasurer of the Company, and that not less than Three-fourths in number of the subscribers shall have paid up their shares of such part of the subscription.

9. Clause (G.) Saving for property of the Ordnance.

Provided always, and be it Enacted, That nothing in this Act or in the said recited Act contained shall extend or be construed to extend to prejudice or in any manner affect any of the estates, rights or property of Her Majesty, Her heirs or successors, or of the principal Officers of Her Majesty's Ordnance, in trust for Her Majesty, Her heirs or successors, for the public service, or authorize or enable any Company, or any Trustees constituted or elected, or to be constituted or elected, under the authority of the said recited Act, or of this Act, or any other person or persons whomsoever, in any manner to interfere with any fortification, battery or other work of defence, or any such estates, rights or property as aforesaid, or any easement, watercourse or other commodity or advantage belonging to or enjoyed therewith, or to quarry, dig or raise gravel, earth, stones, sand or other materials therein, without the consent of the said principal Officers or their successors in office, or of the Commanding Royal Engineer in Ireland, or the district for the time being.

10. Clause (F.) This Act and recited Act to be construed as one Act.

And be it Enacted, That this Act and the said recited Act shall be construed together as one Act.

11. Act may be altered.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

(Ireland.)

A

B I L L

To extend the Provisions of an Act of the Fourth Year of Her present Majesty, for enabling the Commissioners of Wide Streets to sell, and Her Majesty to purchase, certain Hereditaments in the City of Dublin, on the North Bank of the River Anna Liffey.

WHEREAS by an Act passed in the eleventh year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to enable the Commissioners of Wide Streets to widen and improve certain Ways, Streets and Passages in and about the City and County of Dublin, and to amend and extend the Provisions of Two Acts passed in the Forty-seventh and Fifty-seventh Years of the Reign of his late Majesty for improving and rendering more commodious such Parts of the County and County of the City of Dublin as are situate on the South-side of the River Anna Liffey, and West of his Majesty's Castle of Dublin," and by certain other Acts therein recited, certain Commissioners therein named were authorized and empowered to improve and render more commodious certain parts of the County and City of Dublin, and for that purpose to purchase certain lands, buildings and hereditaments, and (amongst other improvements) to complete the opening of the quay on the North-side of the River Anna Liffey, between West Liffey-street and George the Fourth's Bridge, in front of the Royal Barracks: Preamble: 11 G. 4, and 1 W. 4, c. 118.

And whereas by an Act passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to enable the Commissioners of Wide Streets to sell, and Her Majesty to purchase, certain Heredi-ments in the City of Dublin, on the North-bank of the River Anna Liffey," reciting (among other things) that in pursuance of the powers in the said last-recited Act contained, the said Commissioners of Wide 4 Vict. c. 16.

Streets, out of the funds appropriated or available for the purposes of the said Act, did purchase the inheritance in fee-simple of a plot of ground extending from West Liffey-street along the North-bank of the River Anna Liffey, and lying between the said river and the Royal Barracks to King George the Fourth's Bridge, on which were formerly standing certain houses and buildings forming the streets called Park-gate-street, Barrack-street, Windmill-court, West Liffey-street and Flood-street, respectively; and reciting that all the said houses and buildings, with the exception of Eleven dwelling-houses, which were specified in the second division of the Schedule to the Act now in recital annexed, had been taken down and entirely removed, and the space on which the same formerly stood was then vacant; and reciting that the said Eleven dwelling-houses, with the appurtenances, were subject to the residue of a term of years, of which Twenty-seven Years or thereabouts were then unexpired, and the interest of the parties entitled thereto under the said lease had not been purchased or taken by the said Commissioners of Wide Streets; and reciting that as the Commissioners of Wide Streets were, under the powers vested in them, directed to apply all ground to be purchased by them for effecting the improvements they were authorized to make, as and for building-ground and other specific purposes, it was expedient, with a view to the improvement of the property of the Crown in the vicinity of the ground so purchased as aforesaid by the Commissioners of Wide Streets, and to the general improvement of the said City of Dublin, that the said ground should be purchased and form part of the Land Revenues of the Crown; it was enacted, that it should be lawful for the Commissioners of Wide Streets, mentioned in the said Act passed in the eleventh year of the reign of his late Majesty King GEORGE the Fourth, to sell unto Her Majesty, Her heirs and successors, and for the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, with the consent of the Lord High Treasurer or the Commissioners of Her Majesty's Treasury for the time being, or any Three of them, to purchase on the behalf of Her Majesty, Her heirs and successors (at a price to be fixed by a valuation to be made in manner thereinafter directed) the fee-simple and inheritance of all that piece of ground thereinbefore mentioned, and more particularly described in the first division of the Schedule to the Act now in recital annexed, and the Eleven dwelling-houses, with the appurtenances, described in the second division of the said Schedule, subject nevertheless, as to the said Eleven dwelling-houses with the appurtenances, and the site on which the same stood, to such term of years or other interest as was then outstanding therein; and it was enacted, that the said hereditaments when purchased should be conveyed to Her Majesty, Her heirs and successors, as part of the Possessions and Land Revenues of Her Majesty, Her heirs and successors, in right of the Crown; and it was enacted, that for enabling the Commissioners

missioners of Her Majesty's Woods, Forests Land Revenues, Works and Buildings to effect such purchase as aforesaid, and to defray all expenses relating thereto; and also for the purchasing the leasehold interests of any parties for the time being entitled to the said Eleven houses and buildings as aforesaid, it should be lawful for the said Commissioners of Her Majesty's Treasury to raise any sum not exceeding the sum of Forty-three thousand Pounds, by sale of a competent part of the sum of Eighty-three thousand eight hundred and fifty-one Pounds Nine Shillings and Four-pence Bank Three-and-a-half per Centum Annuities in Ireland, then standing in the names of the Commissioners of Her Majesty's Treasury, and which was purchased with monies which arose from the sale of certain of the Crown Land Revenues in Ireland:

And whereas by another Act passed in the fourth and fifth year of the reign of Her present Majesty, intituled, "An Act for further extending the Powers of several Acts for enabling the Commissioners of Wide Streets, Dublin, to widen and improve certain Ways, Streets and Passages in the City and County of Dublin, and for raising Funds to enable the said Commissioners to carry the same into execution," after reciting that an Act was passed in the Parliament of Ireland in the thirty-first year of the reign of King GEORGE the Second, intituled, "An Act for making a wide and convenient Way, Street and Passage from Essex Bridge to the Castle of Dublin, and for other purposes therein mentioned," and that several subsequent Acts were passed, as well in the Parliament of Ireland as in the Parliament of the United Kingdom, whereby certain powers were from time to time given to the Commissioners of Wide Streets, for the purpose of widening and improving certain Streets, Ways and Passages in the County and County of the City of Dublin, the last of which Acts was passed in the first year of the reign of Her present Majesty, and was intituled, "An Act to extend, alter and enlarge the Powers of several Acts for enabling the Commissioners of Wide Streets in Dublin to widen and improve certain Ways, Streets and Passages in the said City and County of Dublin, and for raising further Funds to enable the said Commissioners to carry the same into execution," and reciting that several of the improvements and alterations specified and set forth in the said Act of the first year of the reign of Her present Majesty were in progress and others yet remained to be perfected, but it had been found impossible to complete the same within the time for that purpose limited by the said last-mentioned Act; it was enacted, that the said Act of the first year of the reign of Her present Majesty, and the Acts therein recited or referred to, and all and every the powers, provisions, matters and things in the said Acts contained (save and except such parts thereof as might be varied, altered or repealed by the Act now

4 & 5 Vict. c. 64.

in recital, and subject to the provisions thereinafter contained), should be as effectual for carrying the Act now in recital into execution as if the same had been re-enacted in the body of the Act now in recital, and should (save as aforesaid) extend, among other purposes, to the purpose following; (that is to say) to complete the opening of the quay on the North-side of the River Liffey, between West Liffey-street and King George the Fourth's Bridge, in front of the Royal Barracks; and it was enacted, that the powers of the Commissioners for the compulsory purchase or taking of messuages, houses, buildings or lands for the purposes of the Act now in recital should not be exercised after the expiration of Four Years from the passing thereof:

And whereas, in pursuance of the powers of the said recited Act of the fourth year of the reign of Her present Majesty, the said Commissioners of Wide Streets contracted to sell, and the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, with the consent of the Commissioners of Her Majesty's Treasury, contracted to purchase, on behalf of Her Majesty, Her heirs and successors, at a price to be fixed by a valuation to be made in manner by the said Act directed, the fee-simple and inheritance of all that the said plot of ground extending from the West-side of Liffey-street along the North-bank of the River Anna Liffey, and lying between the said river and the Royal Barracks, to King George the Fourth's Bridge, more particularly described in the first division of the Schedule to the said Act annexed, and the Eleven dwelling-houses, with the appurtenances, described in the second division of the said Schedule, subject nevertheless, as to the said Eleven dwelling-houses with the appurtenances, and the site on which the same now stand, to such term of years or other interest as was then outstanding therein:

And whereas the price to be paid for the said plot of ground, and premises so contracted to be sold and purchased (subject, as to the said Eleven dwelling-houses, to such term of years or other interest therein as aforesaid) has been fixed by a valuation made in the manner by the said Act directed, at the sum of Sixteen thousand six hundred and thirty-one Pounds Fourteen Shillings and Five-pence; but in making such valuation it has been considered that, to give value to the said ground, a quay-wall must be constructed along the North-bank of the River Anna Liffey, and a roadway formed on the South-side of the said plot of ground, at the expense of the purchasers thereof, and a sum of Two thousand two hundred and seventy-nine Pounds and Ten Shillings has been allowed or deducted from the price of the said premises, as the estimated cost of constructing the said quay-wall and roadway:

And whereas the interests of the parties entitled to the said Eleven dwelling-houses, with the appurtenances, for the residue of the terms unexpired therein, have not yet been purchased or contracted to be purchased; but it is estimated that the sums necessary to be reserved for the purchase of such interests, and also for the construction of the quay-wall and roadway hereinbefore mentioned, after payment of the said sum of Sixteen thousand six hundred and thirty-one pounds Fourteen Shillings and Three-pence, the ascertained price of the fee-simple and inheritance of the said plot of ground and premises so contracted to be purchased, subject to such interests as aforesaid, will not wholly exhaust the before-mentioned sum of Forty-three thousand Pounds, which by the said recited Act of the fourth year of Her Majesty's reign the Commissioners of Her Majesty's Treasury were authorized to raise for the purpose of effecting such purchases as aforesaid; and it is expedient that the surplus of the said sum of Forty-three thousand Pounds should be appropriated to improvements upon or in the vicinity of the said plot of ground, as hereinafter mentioned;

May it therefore please Your MAJESTY,

That it may be Enacted; **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for the Commissioners of Her Majesty's Treasury, by sale of a competent part of the Bank Three Pounds Ten Shillings per Centum Annuities in Ireland, standing in the names of the said Commissioners, and which annuities were purchased with monies which arose from the sale of certain of the Crown Land Revenues in Ireland, to raise and pay to the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings such sum or sums of money as, with the monies already raised and paid to the said last-named Commissioners under the authority of the said recited Act of the fourth year of Her Majesty's reign, will make up in the whole the full sum of Forty-three thousand Pounds authorized to be raised by the said recited Act.

1. Commissioners of the Treasury empowered to raise 43,000*l.* by Sale of Bank Annuities in Ireland, and to pay same to the Commissioners of Woods.

And be it Enacted, That the said sums of money so paid and to be paid as aforesaid, amounting in the whole to the sum of Forty-three thousand Pounds, shall be applied by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, in the first place, in payment of the price fixed to be paid for the fee-simple and inheritance of the said plot of ground and premises so contracted to be sold by the Commissioners of Wide Streets, and to be purchased by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues,

2. Application of such Money.

Works and Buildings on behalf of Her Majesty, Her heirs and successors, under the authority of the said recited Act of the fourth year of Her Majesty's reign as aforesaid, and in defraying all expenses incident to such purchase and subject thereto, in purchasing the leasehold or other interests of the parties entitled to the Eleven dwelling-houses, with the appurtenances, now standing on part of the said ground and premises, and defraying the expenses of such last-mentioned purchases, in straightening and completing the opening of the quay, and constructing a quay-wall along the North-bank of the River Anna Liffey, between West Liffey-street and King George the Fourth's Bridge, in front of the Royal Barracks, in forming a convenient roadway on the South-side of the said plot of ground and premises so contracted to be purchased as aforesaid, and in levelling, inclosing, laying out and planting the said plot of ground or otherwise improving the same, and in improvements immediately connected therewith, and in defraying the expenses of obtaining and passing the said recited Act of the fourth year of Her Majesty's reign, and this Act, and of carrying the same respectively into execution, and all other expenses relating thereto; and the surplus (if any) of the said sum of Forty-three thousand Pounds which shall remain after answering the purposes aforesaid, shall be applied to such purposes as monies to arise from the sale of Land Revenues of the Crown in Ireland are now by law applicable.

3. Powers of Wide-street Commissioners vested in the Commissioners of Woods, so far as regards the purposes of this Act.

AND for better enabling the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings to purchase the said leasehold and other interests to complete the opening of the said quay, and form the said intended roadway, and to execute the several other improvements hereinbefore mentioned; BE it Enacted, That all and singular the same powers and authorities which by the several Acts hereinbefore recited or referred to, or by any other Act or Acts of Parliament now in force have been given to or are vested in the Commissioners of Wide Streets in Dublin, for the compulsory purchase or taking of the Eleven dwelling-houses, with the appurtenances, hereinbefore described, for completing the opening of the quay on the North-side of the River Anna Liffey, for forming, stopping up or diverting Streets, Ways or Passages, and for otherwise improving the plot of ground and premises so contracted to be purchased on behalf of Her Majesty as aforesaid, and the immediate vicinity thereof, shall, so far as the same powers and authorities are applicable to the objects and purposes of this Act and the said recited Act of the fourth year of Her Majesty's reign, be given to and vested in the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings; and the said last-named Commissioners shall have and enjoy the like rights, privileges and immunities in the execution of this Act and the said recited Act of the fourth year of Her Majesty's reign,

reign, as the said Commissioners of Wide Streets have and enjoy or are entitled to exercise in the execution of their Acts or any of them.

4. Improvements to be made with the consent of the Lord Lieutenant of Ireland.

Provided always, and be it Enacted, That none of the said works and improvements shall be undertaken, commenced or carried on by the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings without the previous approval or consent of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being.

5. Monies to be placed in the Bank of Ireland, and paid by drafts on the said Bank.

And be it Enacted, That all sums of money to be raised and paid by the Commissioners of Her Majesty's Treasury under the authority of this Act shall be placed to the credit of the Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, in the Bank of Ireland, and that all payments to be made by the said last-named Commissioners, in pursuance of this Act, shall be made by drafts on the Bank of Ireland.

Wide Streets (Dublin).

(Ireland.)

A

B I L L

To extend the Provisions of an Act of the Fourth Year of Her present Majesty, for enabling the Commissioners of Wide Streets to sell, and Her Majesty to purchase, certain Hereditaments in the City of Dublin, on the North Bank of the River Anna Liffey.

(Prepared and brought in by
The Earl of Lincoln, Lord Eliot, and
Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,*
11 *July* 1842.

433.

Under 1 *oz.*

(Ireland.)

A

B I L L

To alter and amend an Act of the Ninth Year of King George the Fourth, to make Provision for the Lighting, Cleansing and Watching of Cities, Towns Corporate and Market Towns in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS an Act was passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled, "An Act to make Provision for Lighting, Cleansing and Watching of Cities, Towns Corporate and Market Towns in Ireland, in certain cases:" And whereas the said Act requires to be altered and amended; BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT said Act, save so far as it repeals any other Act, shall be and the same is hereby repealed: Provided, however, That all Commissioners who have or shall have been chosen pursuant to the said recited Act, for all or any of the purposes therein mentioned, and who shall have acted as such Commissioners for the space of *One calendar Month* next before the time of the passing of this Act, and against whose right so to act no proceeding shall before the passing of this Act have been instituted in any of Her Majesty's Courts of Law, are and shall be respectively Commissioners for the purposes of this Act, with such rights and powers, and for such periods respectively, as if they had been elected pursuant to the provisions thereof.

1.
This Act, save the First Section thereof, repealed.

Commissioners elected under 9 Geo. 4, c. 82, deemed to be properly chosen, and shall continue to act.

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2.
On application of Twenty-one Householders or Occupiers of any City, &c., the lighting, &c. of which is not provided for, the Lord Lieutenant may order the Mayor, &c. of such City, &c. to convene a Meeting for the purpose of carrying this Act into execution.
9 Geo. 4, c. 82, s. 2.

And be it Enacted, That from and after the *passing of this Act*, upon the application of *Twenty-one* or more householders residing in any city, town corporate, borough, market-town, or other town, the lighting, watching, cleansing, paving or supplying water for which is not provided for by or under any Act of Parliament, each of such householders occupying a dwelling-house or other tenement of the annual value of *Twenty Pounds* or more, it shall be lawful for the Lord Lieutenant, or other Chief Governor or Governors of Ireland, to authorize the carrying this Act into execution, and for that purpose to order and direct that the Mayor or other Chief Magistrate of any such city, town corporate or borough, or any Two or more Justices of the Peace, resident within *Ten* Miles of any such borough or market-town, or other town, not being a town corporate, shall convene a meeting for the purpose of carrying this Act into execution, and shall preside thereat, such orders and directions to be signified by the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors, or in his absence by the Under-Secretary; and a copy of such orders and directions, together with a copy of the application for the same, and the names of the parties signing such application, shall be published in manner hereinafter pointed out for posting all notices requiring to be published by this Act.

3.
Notice of Meeting shall be given within Ten Days after receipt of Orders, and Meeting shall be held Twenty-one Days after notice.
9 Geo. 4, c. 82, s. 3.

And be it Enacted, That such meeting shall be holden at some convenient place within such city, town corporate, borough, market-town or other town, and that the said Mayor, or other Chief Magistrate or Justices, as the case may be, shall, within *Ten* Days after the receipt of such orders and directions, signified as aforesaid, appoint and notify a time and place for the said meeting, and that the time appointed for holding the said meeting shall not be less than *Ten* Days and not more than *Twenty-one* Days from the time of the first notification of the same.

4.
At such Meeting all Inhabitants of houses, &c. rated at Five Pounds in said City, &c. or within Two Miles thereof, shall vote.
9 Geo. 4, c. 82, s. 4.

And be it Enacted, That at any meeting convened as hereinbefore directed, every person who shall reside in or on, or occupy any tenement, yard, land or other rateable property within the city, town corporate, borough, market-town or other town where such meeting shall be held, and who shall, for or in respect of such tenement, yard, land or other property, have been rated, assessed or charged for the maintenance of the poor, and shall produce the Collector's receipt showing that he has paid the amount of said rate at the time of holding such first election, but the rate for the purposes of this Act at the time of holding all subsequent elections, on the computed annual value of *Five Pounds* or more, shall be admitted and entitled to vote, and no other person whatsoever; and that wherever it shall happen that the limits of any town may not be defined,

defined, every person shall be admitted to vote who, being assessed as aforesaid, shall reside within the distance of Two Miles from the principal market-house of such town, if any there be, and if none, then within the distance of *Two* Miles from the verge or boundary of the place where the principal market of such town is usually held.

5.
Scale of Voters in respect of property.

And be it Enacted, That in all elections of Commissioners for any city, town corporate, borough, market-town or other town, and in any and every other matter or thing to be decided by a majority of the votes of rate-payers assessed under this Act, every voter holding property so valued and rated under this Act shall in respect of such property have a vote or votes in such number and proportion as hereinafter mentioned; (that is to say) every holder of property valued and rated as herein mentioned to the amount of *Five* Pounds or upwards, but under *Ten* Pounds, shall be entitled to One vote; and every holder of property so valued and rated to the amount of *Ten* Pounds or upwards, shall be entitled to Two votes; and in case of such valuation exceeding *Ten* Pounds, shall be further entitled to an additional vote for every sum of Ten Pounds comprised in such excess.

6.
Right of voting shall be decided by Chairman at Meeting.

And be it Enacted, That if any controversy shall arise at any such meeting as to the qualification or right of voting, or eligibility of any person claiming to vote, or to be qualified or eligible, such controversy shall be determined by reference to the rate-book of the Guardians of the Poor Law of the Union in which such city, town corporate, borough, market-town or other town is situate; and for this purpose, the Clerk to the Guardians of such Union shall attend such meeting, and all other meetings, for electing Commissioners under this Act, and shall have with him then and there the rate or valuation-book of such Union, in order that reference may be had thereto, if necessary, as aforesaid, and shall point out to the person or persons presiding at such meeting as is hereinbefore enacted, the entry in said book of rating of the person whose vote shall so be in controversy as aforesaid; and the person or persons so presiding at such meeting as aforesaid, shall give judgment, decide and receive or reject any such vote accordingly; and if any Clerk of any Union shall refuse or neglect to attend any such meeting so convened as aforesaid he having been required to do so by a requisition in writing, signed by the person or persons authorized to preside at such meeting, or by any One of them, such requisition being served upon him personally, or left for him with the Master, Matron or Porter of the Workhouse of such Union, or with his Wife or Servant above Sixteen years of age, at his dwelling-house or usual place of residence, and being convicted thereof

Clerk to Guardians to attend with Valuation Book to assist Chairman.
9 Geo. 4, c. 82, s. 7.

Clerk refusing or neglecting, to forfeit for each offence 20*l.* and Costs.

before the Magistrates at Petty Sessions, shall for every such offence forfeit and pay the sum of *Twenty Pounds* sterling, together with the costs of suing for and recovering or levying same, to be recovered and levied in like manner as all other forfeitures, fines or penalties are made recoverable, and directed to be levied by this Act.

7.
Mayor, &c. shall preside at the Meeting which shall determine whether this Act shall be executed in the place where Meeting is held.
9 Geo. 4, c. 82, s. 8.

And be it Enacted, That the Mayor, Chief Magistrate or Justices (as the case may be) to whom such orders or directions shall be given as aforesaid, shall preside at any meeting assembled as hereinbefore directed, and shall read or cause to be read the requisition whereupon he or they have summoned such meeting, and shall require the persons assembled thereat to determine by plurality of votes whether the provisions of this Act, as hereinafter set forth, for the several purposes of lighting, watching, cleansing, paving, supplying water, watering the streets and other purposes of the same, shall or shall not be adopted and acted upon within such city, town corporate, borough, market-town or other town, and the liberties and suburbs thereof, or any part of such liberties and suburbs.

8.
If Meeting determine against adopting provisions of this Act, it shall be adjourned sine die, not again to be convened for One Year from the time of such determination, and so toties quoties from year to year.
9 Geo. 4, c. 82, s. 9.

And be it Enacted, That if such meeting shall determine against adopting the said provisions, it shall not be competent for any householder or others within the same city, town corporate, borough, market-town or other town, to make any such application as has been hereinbefore described, nor shall any such orders and directions as have been described issue for convening a like meeting within the same city, town corporate, borough, market-town or other town, except after the expiration of *One whole Year* from the time of such determination, but that then and in such case application may be made and proceedings had as is herein provided in the case of an original application for the purposes in this Act mentioned; or in case the said meeting shall adopt any One or more, but not all, of the purposes in this Act mentioned, and it shall happen that Twenty-one or more householders, each residing in or occupying any houses, tenements or premises in any city, borough, town corporate, market-town or other town, of the value of Twenty Pounds or upwards, shall make application in writing to the Chairman of the then existing Commissioners at least Two calendar Months before the Thirty-first day of July in any year, to call upon the Rate-payers in said city or town to adopt all or any of the provisions of this Act not theretofore adopted, then and in such case such Chairman shall, immediately upon receipt thereof, give notice in manner by this Act hereinafter provided, that at the next annual meeting, to be holden as hereinafter directed, within such city, town corporate, borough, market-town or other town, such application will then and there be brought

If Meeting shall adopt One or more, but not all, of said provisions, how others may be adopted afterwards.

brought forward, to be decided upon by the qualified voters of said city, town corporate, borough, market-town or other town, by a plurality of votes; and if any or all of said provisions in said notice mentioned shall then be adopted by said meeting, such provision so adopted shall have the same force as if the same had been adopted at the first meeting of the rate-payers under this Act.

9.
Meeting may adopt provisions of this Act for One or more of the purposes thereof; in such case the Act to be applied to such purposes only.
9 Geo. 4, c. 82, s. 10.

Provided always, and be it Enacted, That if any such meeting, convened as aforesaid, should determine against adopting the provisions of this Act for all and every the purposes of the same, it shall and may be lawful for any person entitled to vote at any such meeting as aforesaid to propose the adoption of the provisions of this Act for any One or more of such purposes; and if such meeting should determine to adopt such provisions for any One or more of the said purposes, then and in such case the provisions of this Act shall be valid and effectual to accomplish, and shall and may be applied to; and all the powers by this Act conferred upon any person or persons shall extend to accomplish the purpose or purposes comprised in the resolution of such meeting only, as if any other purpose or purposes had not been mentioned in this Act.

10.
If Meeting determine to proceed in the execution of this Act, Commissioners shall be elected from Occupiers rated at 20*l.* a year.
9 Geo. 4, c. 82, s. 11.

And be it Enacted, That if at any such meeting it shall be determined that the provisions of this Act shall be adopted for all or any of the purposes of this Act, then and in such case it shall forthwith be determined at such meeting that a number of Commissioners, not being less than Nine nor more than Twenty-one, shall be elected to carry such purposes into effect; and upon such determination, such number of Commissioners shall be elected in manner hereinafter mentioned; and every person who shall occupy any house, tenement, premises, land or other property within such city, town corporate, borough, market-town or other town, and who shall have been assessed or charged by the last rate made for or in respect of such house, tenement, premises, land or other property of the computed annual value of Twenty Pounds or more, shall be eligible to be elected a Commissioner for the purposes of this Act: Provided nevertheless, That in the case of any town the limits of which may not be defined, every person assessed as aforesaid who shall reside within Two Miles of the principal market-house of such town, if any there be, and if none, then within Two Miles of the verge or boundary of the place where the principal market of such town is usually held, shall be eligible as aforesaid.

11.
Mode of election of Commissioners.
9 Geo. 4, c. 82, s. 12.

And be it Enacted, That such Commissioners shall be elected in manner following; (that is to say) each candidate shall be proposed at the said meeting by some person duly qualified to vote thereat, and shall be seconded by some other person in like manner qualified;

and if more candidates than the number of Commissioners required shall be proposed, and that a poll shall be demanded by any persons qualified to vote on behalf of any of such candidates, then the Mayor or other Chief Magistrate or Justices presiding (as the case may be), shall adjourn the said meeting until Ten of the clock in the Forenoon of the day next succeeding, unless such day shall be Sunday, and, in that case, to the Monday following, and shall at such time, and at the same place, open and proceed with such poll, and in a book or books prepared for that purpose, which book or books he or they is and are hereby required previously to prepare, enter or cause to be entered the names of all such candidates, and the name of every person duly qualified to be present and vote, who shall desire to vote, together with his description and abode, and shall register the vote or votes of every such person for every or any such candidate as every such person may respectively require; and if the votes of all the persons duly qualified and desirous to vote cannot be conveniently collected and registered by Four of the clock of the same day upon which the said poll shall have been commenced, then the said Mayor or other Chief Magistrate or Justices, as the case may be, shall adjourn such poll to the day next succeeding, unless such day shall be Sunday, and in that case to the Monday following; and if such second day shall likewise prove insufficient, shall adjourn to the day next succeeding, unless such day shall be Sunday, and in that case to the Monday following, and so proceed, de die in diem, to collect and register the votes of all persons duly qualified and applying to vote; and on each day to which an adjournment shall be made, the poll shall open at *Ten* of the clock in the Forenoon and close at Four of the clock in the Afternoon: Provided nevertheless, That the poll shall finally close so soon as all the persons duly qualified and desirous to vote shall have voted, or after the lapse of One hour without any person offering to vote; and so soon after the close of the poll as may be possible, the result thereof shall be proclaimed at the place where the election may have been holden; and such Mayor or other Chief Magistrate or Justices, as the case may be, shall forthwith by public notice appoint and notify a time and place whereat the persons so elected Commissioners as aforesaid shall assemble, and the names (which names as specified in said notice shall be deemed the list of Commissioners hereinafter referred to) of the persons so elected, and the time appointed for the assembling of such persons so elected as aforesaid shall not be more than *Seven* Days from the date of such notification; and the said Mayor or other Chief Magistrate or Justices, as the case may be, shall, out of the first monies raised by virtue of the assessment hereinafter directed to be made, be reimbursed all such reasonable charges and expenses as may be incurred in providing clerks and books,

Expenses of election.

books, and otherwise in the performance of the duties hereby prescribed to them; and the said Commissioners are hereby empowered and required to make such reimbursement of such monies accordingly: Provided, That in case the said meeting shall determine against the adoption of this Act for all or any of the purposes of the same, the said Mayor, Chief Magistrate or Justices shall be reimbursed all such charges and expenses incurred as aforesaid, by and out of the funds applicable to such general purposes, under the direction of the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors, and the said Chief Secretary is hereby empowered and required to direct such reimbursement accordingly; and when the said election of Commissioners shall have been completed in manner aforesaid, the person or persons who shall have presided at such election shall immediately cause a copy of the Lord Lieutenant's order for holding said election to be fairly made out, and shall certify thereon that he or they have compared the same with the original order, and that the same is a correct copy, and that an election of Commissioners had been held pursuant thereto, at which election he or they presided, and that the said city, town corporate, borough or other town, to be described in such certificate by its proper name, is at the time of the making of such certificate placed under the provisions of this Act; and such certificate shall in any Court of Law or Equity be taken and deemed to be conclusive evidence of the truth of its contents and of the regularity and sufficiency of the several proceedings therein mentioned, and of the validity of the election of the said Commissioners; and at any and every subsequent election of Commissioners, for the purposes of carrying the provisions of this Act into execution, held in manner hereinafter directed, the person presiding at such election shall certify under his hand that such last-mentioned election has been holden pursuant to this Act; and such last-mentioned certificate shall in any Court of Law or Equity be taken and deemed to be conclusive evidence of the truth of its contents, and of the regularity and sufficiency of the several proceedings therein mentioned, and of the validity of the election of the Commissioners therein named.

Certificate of City, &c. being put under this Act, to be given by person or persons presiding thereat.

To be taken as proof thereof, and shall bar all allegations to the contrary.

So of future elections of Commissioners under this Act.

12.

And be it Enacted, That One-third of such persons who shall be first elected Commissioners in any city, town corporate, borough, market-town or other town, at the first meeting there held under the provisions of this Act, shall go out of office on the Thirty-first day of July in the year next following such first election; and in place of such Commissioners so going out of office, a like number of other Commissioners to be elected as hereinafter provided shall come into office; and in each subsequent year, on the Thirty-first

One-third of Commissioners to go out of office on Thirty-first of July in each year, and new Commissioners elected in their place.

day of July, One-third of such Commissioners whose names shall be then contained in the said list of Commissioners shall, according to the priority and in the order of their respective names therein, go out of office in rotation; and in place of such last-mentioned Commissioners so going out of office, a like number of other Commissioners, to be elected in manner hereinafter provided, shall come into office, and so on in succession; and there shall be a meeting of said Commissioners held on the First day of August in each year, provided the same shall not fall upon a Sunday, in which case it shall be held upon the Monday following, at which meeting the person who had been Chairman of the Commissioners on the Thirtieth of July then preceding, whether he shall or shall not have been one of the then continuing Commissioners, shall, if present, preside, but in case of his absence any other of said Commissioners then and there present may preside thereat, and the person so presiding shall proceed to an election of Commissioners duly qualified as hereinbefore mentioned in the place of the said One-third of Commissioners then last gone out of office, and such election shall be held in the manner and form, except as herein otherwise provided; and all persons shall be entitled to vote thereat in such manner, to such effect, and upon such qualification as are hereinbefore mentioned in respect of the first election of Commissioners under the provisions of this Act for such city, town corporate, borough, market-town, or other town: Provided always, That at every meeting for the election of Commissioners to supply the place of Commissioners gone out of office, in case the number of new Commissioners then and there elected shall be less than the number of those so gone out of office, as aforesaid, such new Commissioners shall succeed to an equal number of those who had so gone out of office, such last-mentioned number to comprise individuals according to the priority and in the order of their respective names in the said list, and thereupon the rest of the Commissioners who had so gone out of office as aforesaid shall again become and be Commissioners in like manner and as effectually to all intents and purposes as if at such last-mentioned meeting they had been duly elected new Commissioners under this Act: Provided also, That in case no new Commissioner shall at such meeting as last aforesaid be proposed and duly elected, then and in such case the several Commissioners who had gone out of office on the Thirty-first day of July preceding shall again become and be Commissioners in like manner and as effectually to all intents and purposes as if they had been duly elected new Commissioners under this Act: Provided also, That the names of all Commissioners elected, or pursuant to this Act deemed to be elected, at any such meeting as last aforesaid, shall be placed at the bottom of the list

Commissioners gone out of office to be held to be re-elected when no new Commissioners elected in their place.

of

of Commissioners for such city, town corporate, borough, market-town, or other town as aforesaid.

13. Property vested in Commissioners going out shall vest in their successors. 9 Geo. 4, c. 82, s. 15.

And be it Enacted, That whenever and so soon as any body of Commissioners shall have completed their appointed term of office as aforesaid, all right, title and interest in and to any monies, books, papers, lands or tenements, and all other property whatsoever, real or personal, theretofore vested in or appertaining to such Commissioners by virtue of this Act, or acquired by or arising from the powers by this Act created, shall be divested from and out of such body of Commissioners, and shall be transferred to, and shall become vested in the body of Commissioners elected to supply the places of such former Commissioners to all intents and purposes as fully and effectually as if the same had been assigned, transferred or conveyed by any instrument or assurance in law, by delivery of seisin, or of actual possession.

14. Notice of Annual Meetings to be given.

And be it Enacted, That the Chairman of the Commissioners elected for the purposes of this Act in any city, town corporate, borough, market-town, or other town, shall give notice in manner by this Act hereinafter directed, at least One calendar Month before the day appointed for holding such annual meeting for the election of Commissioners as aforesaid, of the day, time of the day, and place where such annual meeting shall be held, and shall call upon all persons entitled to vote at such annual election as aforesaid to assemble themselves at such time and place for such purpose accordingly.

15. Outgoing Commissioners may be re-elected Commissioners.

And be it Enacted, That all such outgoing Commissioners shall be eligible to be and may be re-elected Commissioners, either at the first or any subsequent annual meeting after their having gone out of office.

16. Commissioners may vote at Annual Elections for Commissioners.

And be it Enacted, That all Commissioners under this Act shall be eligible to vote at such annual elections for other Commissioners then to be elected.

17. How to proceed in cases of casual Vacancies of Commissioners. 9 Geo. 4, c. 82, s. 17.

Chairman to issue Summonses for Extraordinary Meeting.

And be it Enacted, That in case any Commissioner shall die or become disqualified, or shall refuse or neglect to act for Two calendar Months at any one time, or in case of any casual vacancy happening in any manner whatever, it shall be lawful for the Chairman of the Commissioners for the time being, and he is hereby required within Fourteen Days next after a vacancy shall so happen, to issue a summons for an extraordinary meeting of the surviving or remaining Commissioners, for the purpose of electing a new Commissioner to supply such vacancy, such summons to be served on the said sur-

viving or remaining Commissioners personally, or left at their respective dwelling-houses; and the time appointed for such extraordinary meeting shall be not less than Seven, and not more than Fourteen Days from the date and issuing of such summonses; and at such meeting it shall be lawful for such Commissioners to elect a proper person to be a Commissioner in the room of the person who shall have ceased to be such Commissioner as aforesaid: Provided always, That until such casual vacancy or vacancies shall be supplied, the remaining Commissioners shall, notwithstanding any such vacancy or vacancies, be fully competent to do all acts and things which by this Act such Commissioners are authorized, empowered or required to do; and the Commissioners elected upon any such casual vacancy shall, on coming into office, and making the declaration and affirmation aforesaid, occupy the place of the person in the room of whom he shall have been elected, and remain in office for the residue of the term during which the said former Commissioner might or would have remained in office if such vacancy had not occurred.

The remaining Commissioners, after Vacancies have occurred, competent to act.

18. Penalty on Chairman for not convening Meetings as above. 9 Geo. 4, c. 82, s. 18.

And be it Enacted, That if such Chairman of the Commissioners for the execution of this Act for the time being shall neglect or refuse at such time as has been hereinbefore appointed for the annual election of new Commissioners, or upon the occurrence of any vacancy among the Commissioners occasioned by death, disqualification or any other cause whatsoever, as hereinafter is provided, to notify the same and to convene a meeting for the election of a new Commissioner or Commissioners, as the case may be, and thereat and thereupon to proceed as herein directed, such Chairman shall cease to be a Chairman or Commissioner, and shall forfeit to any person, being a householder in the same city, borough or town, who shall sue for the same, the sum of One hundred Pounds, such sum to be recovered, with full costs of suit, by action of debt, bill, plaint or information in any of Her Majesty's Courts of Record at Dublin, wherein respectively no essoign, wager of law, or more than one imparlance shall be allowed: Provided, That no such sum be recovered unless some prosecution, action or suit for recovery of the same be commenced within Six calendar Months after such forfeiture shall have been incurred; and upon such default of such Chairman, the Commissioner first named upon the list of Commissioners as then existing, beginning at the top thereof, such Commissioner not being the Chairman as aforesaid, or if the Chairman, then the next in succession on said list named, shall convene such meeting, and shall proceed to make and certify such election, and shall convene such meeting for filling casual vacancies in the number of Commissioners as hereinbefore directed, and shall notify the same, and proceed thereat as the said Chairman ought to have done, and the election

How sued for and recovered.

Action or Suit to be within Six Months after such Forfeiture.

so

so made and held shall be to all intents and purposes a good and valid election, as if made by the said Chairman in conformity to this Act; and in default of such first-named Commissioner on said list, the Commissioner next on said list named shall convene such meeting, and so on, the duty and competency to call such meeting devolving upon each Commissioner successively on default of the next preceding Commissioner on said list named; and each individual Commissioner shall by his default incur the like disqualification and forfeiture, to be recovered in like manner as was incurred by the Chairman upon his default.

19.
If number of Commissioners less than Twenty-one, they may be increased to Twenty-one;

And be it Enacted, That in case and whenever a less number of Commissioners than Twenty-one shall have been elected Commissioners for carrying this Act into execution in any city, borough, town corporate, market-town or other town, if the Commissioners so elected shall deem it necessary to increase such their number, the same may be increased to any number not exceeding Twenty-one, at any such annual election of Commissioners as aforesaid; notice thereof being given in the manner hereinbefore set forth, touching or in respect of the election of Commissioners then gone out of office; and if it shall so happen that at any such first election of Commissioners for the purposes aforesaid, the number of Commissioners then elected shall have been more than *Nine*, and that the Commissioners so elected shall deem it necessary to diminish such their number, then and in such case the said Commissioners shall not be bound to fill up any vacancy which may occur in the then existing number of Commissioners, so as such number of Commissioners shall not at any time be reduced to less than *Nine*, any thing hereinbefore contained to the contrary notwithstanding: Provided, That in case of any such increase or diminution in the number of said Commissioners as aforesaid, the Commissioners going out by annual rotation as aforesaid shall be One-third of the number of the Commissioners as then existing, or as nearly so as the same can be made, and whenever the whole number of Commissioners shall not be less than Nine, all acts and things done by them shall be valid and effectual, to all intents and purposes whatsoever.

or if more than Nine, may be decreased to Nine.

20.
Persons occupying Premises of 20*l.* value for Twelve Months preceding Election alone qualified to be Commissioners.
9 Geo. 4. c. 82, s. 19.

And be it Enacted, That no person shall at any election subsequent to the first election held pursuant to this Act, be eligible to be elected a Commissioner for any city, town corporate, borough, market-town or other town, unless he shall occupy, and shall for *Twelve* Months next previous have occupied, a house or other premises of the clear annual value of *Twenty Pounds* or upwards, situate within the same city, borough or town, or the suburbs or liberties thereof, to which, as determined by the said Commissioners, pursuant to the power hereinafter vested in them, the purposes of this Act shall extend or be extended.

21.
Commissioner neglecting to attend Three first Meetings, his place shall be declared vacant, unless in case of Illness, &c.
9 Geo. 4, c. 82, s. 20.

And be it Enacted, That if any person duly elected to be a Commissioner under this Act, shall refuse or neglect to attend some one of the Three first meetings of Commissioners, which shall be held immediately subsequent to his election, and thereat to make the declaration and affirmation by this Act appointed to be made by Commissioners, the appointment of every such person so refusing or neglecting shall become void, and his place or office shall be declared vacant, unless it shall be made appear to the satisfaction of the other Commissioners acting in the execution of this Act, in the same city or place, that such person was prevented from attending by some illness or other sufficient cause, to be allowed by the majority of such Commissioners present at the last of said Three meetings, and if any Commissioner shall absent himself from the meetings of the Commissioners for Six calendar Months, the Clerk of the said Commissioners shall, after the expiration of such Six calendar Months, give notice to each then existing Commissioner, or leave the same at his usual place of residence, in which notice it shall be stated that the Commissioners at their next ordinary weekly meeting will take the same into consideration; and if such person shall fail to attend the meeting of Commissioners required to be holden by such summons or notice, he shall be deemed to have neglected to act as a Commissioner, and his place shall be declared vacant, unless in the case of illness or other sufficient cause to be shown to and allowed by the Commissioners at the meeting for which notice shall have been given.

22.
Commissioners shall define limits of the respective Cities, &c.
9 Geo. 4, c. 82, s. 21.

And be it Enacted, That it shall be lawful for the Commissioners for the time being for the execution of this Act, in any city, town corporate, borough, market-town or other town under this Act, and they are hereby authorized, empowered and required to determine the limits of such city, town corporate, borough, market-town, or other town respectively, and of the suburbs and liberties thereof respectively, to which the purposes of this Act shall extend, and to alter the same from time to time as they shall see necessary, giving public notice of such limits, and any such alteration thereof, in manner hereinafter directed for giving public notices.

23.
Commissioners to meet Once in every Week for transaction of Business.
9 Geo. 4, c. 82, s. 23.

Complainants may then and there attend.

And be it Enacted, That the Commissioners for executing this Act, in any city, town corporate, borough, market-town or other town, shall meet at noon, at their board-room, on some one day in each week, such day to be from time to time appointed at their own discretion, and at such weekly meeting, all business appertaining to the matters, things or purposes for which they were elected to be Commissioners shall be proceeded with; and at said meetings it shall be lawful for any householder residing within any such city, town corporate, borough, market-town, or other town, or the liberties or suburbs thereof to which the purposes of this Act may be extended,

to

to appear and prefer any matter of complaint which he or she may think proper, concerning any matter or thing done by force, or in pursuance of or under pretence of the provisions of this Act.

24. Commissioners to attend Meetings of at least One-third of the whole number in rotation.

And be it Enacted, That such Commissioners shall attend such weekly meetings in rotation, not less than the *One-third* of the whole number of such Commissioners attending at each meeting; but it shall be lawful for any Commissioner to attend and vote at such weekly meetings, if he thinks proper to do so, although it be not his turn to attend; and if any Commissioner whose turn it shall be to attend shall fail to attend, or to procure some other Commissioner to attend in his stead, such Commissioner so making default shall forfeit the sum of Forty Shillings, to be paid to the Treasurer or Clerk of the Commissioners; and if any such Commissioners shall fail or refuse to pay such fine or penalty within Ten Days after the same shall be demanded of him personally by the said Treasurer or Clerk, he shall thereupon cease to be and shall be disqualified from acting as such Commissioner: Provided always, That in case of sickness or other unavoidable absence, such fine or penalty may be remitted at any meeting of such Commissioners, but said Commissioners may make their attendance by rotation to be a monthly rotation, if so they shall see fit, but whatever may be the duration of rotation, their attendance at meetings of the Commissioners must be weekly as aforesaid.

Penalty on neglect Forty Shillings,

and on non-payment Disqualification.

25. First Meeting of Commissioners to be appointed by Mayor, &c.

And be it Enacted, That the Commissioners first elected in any city, town corporate, borough, market-town or other town, shall assemble at such time and place as shall have been appointed and notified by the Mayor or other Chief Magistrate or Justices, as the case may be, presiding at the meeting for the election of such Commissioners, and at such time and place such Mayor or other Chief Magistrate or Justices, as the case may be, shall attend; and it shall be lawful for such Mayor or other Chief Magistrate or Justices, or either of them, and he and they is and are hereby authorized and required to administer to any and every of the persons elected Commissioners who shall be present at such meeting, and every such Commissioner shall make and take and subscribe a declaration to the effect following; (that is to say)

Declaration and Affirmation of Commissioners to be first administered by Mayor, &c.

"I, A. B., do solemnly declare and affirm, That I will faithfully, impartially and honestly execute the powers and trusts reposed in me as a Commissioner, appointed by virtue of an Act made in the year of the reign of Queen Victoria, to amend and alter an Act passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled, 'An Act to make Provision for Lighting, Cleansing and

and Watching of Cities, Towns Corporate and Market-towns in Ireland, in certain cases,' to the best of my knowledge and ability, for the purposes in the said Act mentioned :"

Declaration and Affirmation may be administered by Commissioners who have themselves made the same.

And all persons elected Commissioners who shall not be present at such first meeting, or who shall be elected Commissioners at any subsequent election, shall make such declaration and affirmation at a meeting of the Commissioners for the time being; and any one of such Commissioners is hereby authorized to administer such declaration and affirmation in the presence of the other Commissioners at such meeting; and the form of such declaration and affirmation shall be entered by the Clerk in a book to be prepared for that purpose, and shall be subscribed in such book by every Commissioner making or taking the same; and such entry shall, upon oath of any subscribing Commissioner, be received as conclusive evidence that such declaration and affirmation was duly taken or made;

Penalty on Commissioners acting without making Declaration and Affirmation.

and if any person at any time elected a Commissioner shall vote or shall do any other act or thing as a Commissioner under this Act, without having previously made such declaration and affirmation, such person shall forfeit the sum of *Five Pounds* to any person being a householder within the same city, town corporate, borough, market-town or other town, or the suburbs and liberties thereof, who shall sue for the same within *Six* calendar Months after said Commissioner shall have so acted;

How to be sued for and recovered.

such forfeiture to be sued for and made recoverable before any Justices of the Peace in the county wherein said city, town corporate, borough, market-town or other town is situate, in Petty Sessions assembled.

26.

Commissioners to elect a Chairman. 9 Geo. 4, c. 82, s. 28.

And be it Enacted, That immediately after making such declaration and affirmation, the Commissioners first elected in any city, town corporate, borough, market-town or other town under this Act, shall proceed to elect by majority of voices one of such Commissioners to be their Chairman, who shall go out of office on the Thirty-first day of July next ensuing, and that on the First day of August in every year, the same not being Sunday, or being Sunday on the Monday following, the Commissioners for the time being shall elect a Chairman for the ensuing year; and in case any so appointed shall decline to act as Chairman, or shall die or become disqualified, or shall neglect or refuse to act as a Commissioner, or otherwise vacate his place, a new Chairman shall be in like manner elected to serve for the residue of the year for which such former Chairman was elected; and the Chairman for the time being shall

Chairman may appoint a Deputy Chairman, or in failure of so doing, Commissioners shall

preside at all meetings of the Commissioners at which he shall be present; and in case of absence, such Chairman may constitute and appoint a Deputy Chairman, or if no such Deputy shall be appointed,

appointed, the Commissioners present shall appoint one of their number present at any such meeting to act as a Chairman.

appoint a Chairmain to act at that meeting.

27.
Commissioners to appoint Officers during pleasure, and Rent of an office.

And be it Enacted, That it shall be lawful for the Commissioners elected in any city, town corporate, borough, market-town or other town under this Act for the time being, and they are hereby authorized and required to appoint during pleasure such Treasurer and Clerk, and Collector or Collectors, and other inferior servants, as they shall think necessary for effectuating the purposes of this Act, and to hire and rent a sufficient office, or house or houses for holding their meetings and transacting their business; and also to appoint suitable salaries, wages and allowances to and for such Treasurer, Clerk, Collector or Collectors, and other inferior servants, and also to agree for a reasonable rent for such office, or house or houses, and to pay such salaries, wages and allowances, and such rent, out of any monies raised or levied by such Commissioners under the authority of this Act.

28.
Clerk not to be Treasurer or Collector, nor Treasurer to be Collector.
9 Geo. 4, c. 82, s. 30.

Commissioners to take security from Officers in sufficient sums, or otherwise shall be answerable for same.

And be it Enacted, That the Clerk of the said Commissioners shall not be capable of being Treasurer or a Collector under such Commissioners, nor shall such Treasurer be capable of being a Collector under such Commissioners, and that it shall be lawful for such Commissioners, and they are hereby authorized and required, to take and require from each and every of such Treasurer and Collectors a bond, with Two sufficient securities, conditioned for the punctual and faithful discharge of their respective trusts, in such penal sums as such Commissioners shall think fit and proper, according to the amount of money to be received by such Treasurer or Collectors respectively; and if it shall appear that such Commissioners have taken such bonds from such Treasurer and Collectors to a sufficient amount, and have to the best of their ability ascertained the sufficiency and solvency of such Treasurer and Collectors, and of their respective securities, and that such Commissioners have without covin or partiality provided as far as in them lay for the safe and secure keeping of such monies and funds by the said Treasurer and Collectors, such Commissioners shall not be liable to make good the amount of any defalcation or embezzlement on the part of such Treasurer or Collectors: Provided always, That such Commissioners shall, and each of them shall, otherwise be liable to make good the amount of any defalcation, embezzlement in or of any monies and funds raised or accruing under this Act, as if the same had actually been received by the hands of said Commissioners, and each of them, any thing in this Act contained to the contrary notwithstanding.

29. Collectors shall pay Monies to Treasurer when amounting to Ten Pounds. 9 Geo. 4, c. 82, s. 31.

And be it Enacted, That every such Collector shall from time to time, as such Commissioners may direct, and at all times so soon as his receipts shall amount to Ten Pounds, pay over to such Treasurer all monies levied or collected by such Collector under or by virtue of this Act, and the Treasurer for the time being, and none other person whatsoever, shall have power or authority to receive such monies from such Collectors; and no Commissioner shall receive or meddle with any monies levied or collected under this Act; and all payments and disbursements shall be made by the hands of the Treasurer, and only upon an order in writing subscribed by the Chairman, and countersigned by the Clerk of the Commissioners for the time being, or upon an order issued pursuant to a resolution of a meeting of Commissioners, and expressed to be so issued and subscribed by the person who presided at such meeting, and by the said Clerk; and any order duly expressed and subscribed as hereinbefore directed, shall be in the hands of the said Treasurer a good and sufficient warrant for any payment made pursuant thereto, and shall be, pro tanto, an acquittance and discharge of such Treasurer.

Money to be issued on order of Chairman under vote of Commissioners at a meeting.

30. Power of Commissioners over their Servants or Officers. 9 Geo. 4, c. 82, s. 32.

And be it Enacted, That at any meeting of such Commissioners, any Treasurer, Clerk, officer or servant may be dismissed or fined for negligence or other misconduct; and in case of the dismissal of any such officer, he shall only be entitled to a rateable proportion of his salary, wages or allowances, and any fine imposed upon him shall and may be deducted thereout; and the salary, wages or allowances of any Collector appointed under this Act, shall not in the whole amount to a sum exceeding *Sixpence* in the Pound on the sum collected by such Collector.

31. Commissioners shall keep Accounts, and balance same up to the 31st July in each year. 9 Geo. 4, c. 82, s. 33.

And be it Enacted, That such Commissioners shall cause a book or books to be kept, wherein shall be entered an account of all monies raised, levied, or borrowed and paid under this Act, distinguishing the sum raised on, and levied or borrowed and paid by each individual; and also an account of all fines and forfeitures levied under this Act, with a note of the offence whereby incurred; and also an account of all the salaries, wages, allowances and emoluments of the Treasurer, Clerk, Collector or Collectors, and other officers or servants; and also of all disbursements made and all charges incurred, of what kind soever; each item being distinguished in effectuating the purposes of this Act; and the account in such book or books shall be regularly balanced up to the Thirty-first day of July in each year.

32. Commissioners shall keep a Book of Minutes of their proceedings. 9 Geo. 4, c. 82, s. 34.

And be it Enacted, That such Commissioners shall cause their Clerk to keep a book or books, in which shall be entered minutes of all

all their proceedings and transactions; and the Chairman at each meeting shall see the entry of the proceedings thereat duly made, and shall subscribe the same with his hand, and the names of the said Commissioners present at every meeting shall be entered; and every book containing such entries shall, at all reasonable times, be open to the inspection of every person subject to assessment under this Act, and it shall be lawful for any such person to peruse, and to make any extract from such book, or from said book or books of account, without fee or reward.

33. Commissioners' Clerk to make out a Book of Rates.

And be it Enacted, That upon the first election of Commissioners under this Act, they shall cause their Clerk to make out a book of rates, wherein shall be inserted the names of every person liable to be rated under this Act, a column of valuation, and another of rate thereon, for the purposes of this Act, in the city, town corporate, borough, market-town or other town for which such Commissioners were elected Commissioners; and the said Clerk shall take the same to the board-room of Guardians of the Poor Law Union in which such city, town corporate, borough, market-town or other town is situate, and from the last amended valuation-book of such Guardians shall place against the names of the several persons in the aforesaid book of the Commissioners inscribed, the value of the house or houses, tenement or tenements, premise or premises, land or other property within such city, town corporate, borough, market-town or other town as shall, in said book of valuation of said Guardians, have been inserted, for the purpose of said Commissioners making a rate thereon; and said Commissioners shall make a rate for the purposes of this Act under this Act accordingly; and subsequently on the Thirty-first day of July in each year, if the same shall not fall upon Sunday, but if it shall fall upon Sunday, then upon the Monday following, the Clerk to the Commissioners under this Act shall take the rate-book of rates last made or amended for the purposes of this Act, to the board-room of the said Guardians as aforesaid, and compare and correct the same with the books of the said Guardians, add to or take from the same thereby, so as that the books shall, so far as said city, town corporate, borough, market-town or other town is concerned, in names and valuations, exactly and precisely agree and correspond; and the Commissioners shall thereupon make a corrected rate accordingly; and the Guardians to the several Unions are hereby required and directed to permit such extracts from, and comparisons with, their said books, to be made in their board-room accordingly; and the Clerks to said Guardians are hereby required and directed to produce said book or books of said Union, and to assist the said Clerks to the said Commissioners in making the

Rate Books to be corrected annually.

Guardians to Poor required to permit comparison with their Books, to be made by Clerk to Commissioners in their Board-room, and Clerk to Guardians required to assist Clerk to Commissioners, under Penalty.

the said extracts and corrections from the said books accordingly; and if the said Clerks to the said Guardians, or any of them, shall refuse or neglect to produce the said book or books, or any of them, or to give to the said Clerks to the Commissioners, or any of them, the assistance herein directed to be given by them, then and in such case the Clerks to the said Guardians or any of them so offending shall forfeit, in each case, a like sum, to be recovered in like manner as hereinbefore enacted, in respect to their or any of them refusing or neglecting to attend at the election of Commissioners for any city, town corporate, borough, market-town or other town, and there producing the rate or valuation-book of the said Guardians, and give the required assistance thereat; and the said Commissioners shall and may pay to said Clerk to said Guardians the reasonable amount of his expenses in giving his attendance and assistance accordingly, at any time or for any purpose under this Act.

Reasonable expenses of Clerk to Guardians to be paid.

34. Commissioners, upon their election, to make estimate of the Expenses attending the execution of this Act for the Year, and so annually. 9 Geo. 4, c. 82, s. 38.

And impose rates for defraying the same.

And be it Enacted, That the Commissioners first elected to carry this Act into execution in any city, town corporate, borough, market-town or other town, shall, with all convenient speed after the election, and thenceforth on the First day of August in each year, proceed to make an estimate of the expenses and charges attendant upon carrying the purposes of this Act into effect, until the Thirty-first day of July then next ensuing, and shall fix, ascertain and impose certain rates and assessments for defraying the same, to be applotted upon and to be raised and levied from and off the owners, occupiers or tenants of all houses, shops, warehouses, cellars, mills, yards, gardens, lands, premises and tenements within such city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof, as determined by the said Commissioners; (that is to say)

Scale of Rates.

On the owners, occupiers and tenants of all such houses, shops, warehouses, cellars, mills, yards, gardens, lands, premises and tenements, such houses being then tenanted or occupied, or having been tenanted or occupied within Three calendar Months then next preceding, of the yearly value of *Five Pounds*, and not amounting to *Ten Pounds*, One or more rate or rates, not exceeding in the whole the amount of *Sixpence* in the Pound of such yearly value:

On the owners, occupiers or tenants of all such houses, shops, warehouses, cellars, mills, yards, gardens, lands, premises and tenements, such houses being then tenanted or occupied, or having been tenanted or occupied within Three calendar Months then next preceding, of the yearly value (computed as aforesaid) of *Ten Pounds* and not amounting to *Twenty Pounds*,

Pounds, One or more rate or rates, not exceeding in the whole *Nine-pence* in the Pound of such yearly value; and,

On the owners, occupiers or tenants of all such houses, shops, warehouses, cellars, mills, yards, gardens, lands, premises and tenements, such houses being then tenanted or occupied, or having been tenanted or occupied within *Three* calendar Months then next preceding, of the yearly value (computed as aforesaid) of Twenty Pounds or upwards, One or more rate or rates, not exceeding in the whole *One Shilling* in the Pound of such yearly value:

Unoccupied houses not to be rated.

It being the full intent and meaning of this Act, that no house which shall have been untenanted and unoccupied for the space of Three calendar Months previous to the day named in the Commissioners' order for commencing the collection of any rate shall be rated, but all others shall.

35.
Relative proportion of Rates.
9 Geo. 4, c. 82, s. 39.

Provided always, and be it Enacted, That the rate which shall be at any time imposed under this Act upon premises of the value of *Five Pounds* and not exceeding *Ten Pounds*, shall be equal to Two-thirds of the rate at the same time imposed upon premises of the value of *Ten Pounds* and not exceeding *Twenty Pounds*, and shall be equal to One-half of the rate at the same time imposed upon premises of the yearly value of Twenty Pounds and upwards; and that the rate to be imposed upon premises of the yearly value of *Ten Pounds* and not exceeding *Twenty Pounds* shall be equal to Three-fourths of the rate imposed upon premises of the yearly value of *Twenty Pounds* or upwards; and that it shall not be lawful to or for such Commissioners to impose and levy any such rate for or in respect of any premises situate beyond the limits to which the lighting, paving, watching, cleansing and other matters and things by this Act provided shall extend; and that all premises under the yearly value of Five Pounds, and all houses untenanted or unoccupied as beforesaid, shall be exempt from any and every such assessment.

36.
Manner of proceeding in the collection of Rates.
9 Geo. 4, c. 82, s. 40.

And be it Enacted, That such first elected Commissioners having determined upon and imposed such first assessment and applotment, shall issue orders to their Collector or Collectors to collect such rates as aforesaid; and such Collector or Collectors, and each of them, shall be furnished with a written warrant or order empowering him or them in that behalf, subscribed by the Chairman and Clerk of the Commissioners for the time being, and shall also be furnished with a copy of such applotment, or such part thereof, as shall be requisite for any such Collector, respectively attested by the signa-

tures of the Chairman and Clerk of the Commissioners for the time being; and every such Collector shall, if so required, exhibit such warrant and copy of applotment upon demanding the sum applotted, and such Collector or Collectors, on receiving the sum applotted, shall give a receipt for the same, and such receipt shall be to the party holding the same a full acquittance and discharge for the sum expressed therein to have been received; and every such Collector shall proceed with all due diligence, after receiving such warrant and copy of applotment, to collect and levy the monies assessed upon the said several premises, and shall make demand of the same upon the premises chargeable, of and from any person found thereon, in occupation of the whole or part; and if no person so occupying be found thereon, then and in such case such Collector shall make demand of the monies so assessed at the dwelling-house of the party chargeable for and in respect of such premises, if such person reside within such city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof; and if such person do not reside therein, and if no person be found in occupation of the premises chargeable, then and in such case such Collector shall affix on some part of such premises a notice bearing date the day and year of affixing the same, subscribed with the name and abode of the Collector affixing the same, in some such form as No. 1, in Schedule (A.) hereunto annexed, requiring payment of the sum applotted within Fourteen Days from the date of such notice; and in case upon making demand of the sum applotted as before directed, either from any person found in occupation of the whole or part of the premises rated, or at the dwelling-house of the party chargeable, the sum demanded be not paid, such Collector shall deliver to such person, or shall leave at such dwelling-house, a notice of the like tenor and purport, dated, subscribed and expressed as aforesaid; and within the Fourteen Days specified in any such notice, the money demanded may be paid to the said Collector at his house or office, and if not paid within that time, such Collector or any other Collector duly authorized, shall make further demand of the same upon the premises chargeable, or at the dwelling-house of the party chargeable, or shall affix a notice of such second demand upon some part of the premises chargeable, in like manner as hereinbefore required and directed in case of the first demand of such money; and if such money be not paid to such Collector upon such second demand, nor within Three Days after making the same, then such Collector may at any time afterwards procure a warrant in some such form as No. 2, in Schedule (A.) hereunto annexed, subscribed by the Chairman of the said Commissioners, which warrant the said Chairman of the Commissioners is hereby authorized and required to grant, upon a certificate signed by the said Collector or Collectors

lectors of such demands having been made, and such notices having been given or affixed, and such money remaining unpaid; and it shall be lawful for such Collector by virtue of such warrant, and such Collector is hereby authorized and empowered to enter upon the premises chargeable, and to seize and distrain the goods and chattels of any person whomsoever which he can find thereon; and if no sufficient distress can be found thereon, then to seize and distrain the goods and chattels of the party chargeable for and in respect of such premises wheresoever the same can be found, and for that purpose to enter any dwelling-house or other house, shop, warehouse or other tenement within such city, town corporate, borough, market-town or other town, or the suburbs or liberties aforesaid, belonging to such party; and if the sum charged be not paid within Fourteen Days from such seizure, together with the costs of such distress, it shall be lawful for such Collector to sell the goods so seized by public cant or auction, for such sum and costs, such costs to be set forth and specified in the warrant authorizing such distress; and the overplus, if any, shall be paid to the party distrained or his representatives, but nothing herein contained shall be construed to give any power to said Commissioners to rate, nor to said Collectors or any of them to enforce payment in any way of any rate in respect of any house which shall be untenanted and unoccupied at the time of collecting said rate in any city, town corporate, borough, market-town or other town, and which shall be proved to the satisfaction of the said Commissioners for said city, town corporate, borough, market-town or other town, by One or more credible witness or witnesses upon oath, which oath the Chairman or person acting as Chairman at any meeting of said Commissioners is hereby authorized and empowered to administer or otherwise, that said house had been untenanted and unoccupied for the space of Three calendar Months then next preceding.

37. Occupiers chargeable with Rates. 9 Geo. 4, c. 82, s. 41.

And be it Enacted, That the immediate tenant or occupier, or tenants or occupiers, of any premises charged with any assessment or applotment under this Act, shall be deemed chargeable with and liable to every assessment or applotment made and imposed in respect of the same: Provided, That if any premises or any part thereof be tenanted or occupied by the month or any shorter period, it shall be lawful for any person so holding or occupying, and such person is hereby authorized and empowered, any special covenant or agreement to the contrary notwithstanding, to deduct from out of the rent paid or payable by such person for and in respect of such holding, tenancy or occupation, any sum or sums paid or levied by or from such persons for or in respect of any such assessment, such person producing the receipt for such sum or sums subscribed as before directed by the Collector receiving the same.

38. Premises shall remain at all times chargeable, save as to Houses unoccupied and untenanted for Three Months previous.. 9 Geo. 4, c. 82, s. 42.

And be it Enacted, That if no sufficient distress can be found on the premises chargeable, and if the sum or sums assessed or charged or applotted upon or in respect of any premises be not otherwise paid or satisfied, the premises for or in respect of which each sum or sums shall have been charged shall remain at all times chargeable with the same, into the hands of whatsoever person or persons such premises may come or fall (houses untenanted and unoccupied, and proved so to have been for Three Months preceding, as hereinbefore mentioned, excepted); and so soon as at any time sufficient distress can be met with thereon, it shall be lawful for any such Collector or Collectors to enter upon such premises, and to distrain any goods or chattels therein or thereon, and to levy all arrears of rates and assessments, with all costs at any time previous accrued or incurred for and in respect of such premises: Provided always, That it shall and may be lawful for any person or persons on whose goods or chattels such arrears and costs may be levied, by action at law or otherwise, to recover of and from the person or persons, or his or her representatives primarily chargeable with the same, and during whose tenancy or holding or enjoyment of such premises the same may have accrued, the full amount thereof, together with full costs and damages for the injury sustained by such levy as aforesaid.

39. Surplus of any preceding year shall be applied to succeeding year, and preceding deficiencies may be supplied. 9 Geo. 4, c. 82, s. 44.

And be it Enacted, That any surplus or redundant funds which may remain after defraying the expenses of any preceding year shall and may be applied towards defraying the expenses of a succeeding year, and that any deficiency of funds on the expenditure of a preceding year shall and may be made good and supplied out of the monies raised in a succeeding year: Provided always, That such monies raised in such succeeding year shall not authorize a levy by rate exceeding the several amounts hereinbefore authorized to be raised or assessed within any One Year, unless in the case of an extraordinary assessment, to be made pursuant to the powers hereinafter reserved, mentioned and contained.

40. Commissioners may sell Gas, &c. to private purposes, and dispose of Profits.

And be it Enacted, That the said Commissioners, having made or caused to be made gas, or conveyed or caused to be conveyed water, to or for any city, town corporate, borough, market-town or other town for which they shall have been so elected Commissioners as aforesaid, may sell and dispose of the same to the inhabitants thereof, or to any other person or persons requiring the same, at such rate or rates, price or prices as they (the said Commissioners) shall see fit; and when and so often as there shall be clear profits arising therefrom or thereout, or from or out of any other source whatsoever, they (the said Commissioners) shall in the first place apply the same to paying off and discharging any money borrowed by

by them under the provisions of this Act; and when all shall have been paid off and discharged, then to lowering the rates payable by said inhabitants and others as aforesaid, till they (the said rates) shall be reduced down to the cost of gas used for the public lamps only, together with a reasonable per-centage or other charge for the maintenance of all works or machinery, lamps and lamp-posts, ponds, tanks, pipes, conduits, channels or gullets, at the least, but still lower, if they shall see fit; then to improving the said city, town corporate, borough, market-town or other town, or the immediate neighbourhood thereof, for all secular purposes, in such manner and way as they (the said Commissioners) shall deem then most useful and beneficial to the inhabitants of said city, town corporate, borough, market-town or other town.

41. An extraordinary assessment may be levied if recommended by Two-thirds of all the Commissioners, and sanctioned by a meeting of persons subject thereto.

And be it Enacted, That if in any case it should happen that the sums to be raised in any city, town corporate, borough, market-town or other town, by the rates of this Act, hereinbefore authorized to be levied, should be deemed insufficient within any One Year, and if Two-thirds of all the Commissioners for the time being, elected for the execution of this Act, in such city, town corporate, borough, market-town or other town, at a meeting of such Commissioners, should be of opinion that an extraordinary rate or assessment should be made and levied for the purpose of this Act, to an amount to be specified in a resolution of such Commissioners, then and in such case it shall and may be lawful for the Chairman of such Commissioners for the time being, and he is hereby required to appoint and convene a special meeting of all persons in such city, town corporate, borough, market-town or other town subject to the assessment under this Act; and such meeting shall be convened within such time, and shall be conducted in such manner, and the time and place of the same shall be notified in like manner as is hereinbefore directed with regard to any annual meeting hereinbefore appointed to be convened by the Chairman of any such Commissioners; and at such meeting, such Chairman shall cause the resolution adopted as aforesaid by *Two-thirds* of such Commissioners to be read, and shall require such meeting to determine by majority of voices, whether such resolution of such Commissioners shall be affirmed or negatived; and if at such special meeting of persons subject to assessment as aforesaid, such resolution of such Commissioners shall be affirmed or agreed to, either to the amount specified in such resolution, or to any less amount, then and in such case it shall be lawful for such Commissioners, and they are hereby authorized and empowered to levy such extraordinary assessment to such amount as shall be so affirmed or agreed to, together with or in addition to the ordinary assessment or assessments, any thing hereinbefore contained to the contrary notwithstanding; and all the powers, duties and authorities by this Act given,

given, created or conferred, and the regulations and proportions ordained for the raising or levying any ordinary assessment, shall be good, valid, obligatory and effectual towards the levying and raising of such extraordinary assessment: Provided, That such resolution so affirmed or agreed to shall not be held or construed to extend the limits or to raise the amount of the ordinary assessment made or to be made in or for any subsequent year; and if such meeting of the persons subject to such assessment shall wholly negative the resolution of such Commissioners, then and in such case such meeting shall adjourn sine die, and it shall not be competent for such Commissioners at any time within *One Year* from the day of such adjournment to propose or adopt any resolution for any such extraordinary assessment, nor for the Chairman of such Commissioners to convene any such meeting of the persons subject to assessment as hereinbefore directed, nor in any manner to impose or levy any assessment other than the ordinary annual assessment, nor otherwise than subject to the limitations hereinbefore appointed to be observed in such ordinary annual assessment: Provided also, That upon and after the expiration of such year, it shall and may be competent for such Commissioners to propose and adopt such resolution, and thereupon to convene such meeting, and to proceed thereat in manner hereinbefore directed, and so on for ever, toties quoties.

42. Streets to be lighted by Gas or Oil by contract or otherwise, and watered, and City, &c. to be supplied with Water. 9 Geo. 4, c. 82, s. 46.

And be it Enacted, That it shall be lawful for the Commissioners for the execution of this Act in any city, town corporate, borough, market-town or other town, and they are hereby authorized and empowered to direct and cause the several streets, squares, lanes and passages within such city, town corporate, borough, market-town or other town to be lighted or watered, or such city, town corporate, borough, market-town or other town to be supplied with water, in such manner as such Commissioners shall judge proper, either with oil or gas, or in any other manner, and to contract with any company or companies of proprietors, or any body corporate, or any other person or persons for those purposes, or either of them, and also to order lamp-posts to be erected in the streets, and lamp-irons to be fixed on the walls of houses and other buildings, and from time to time to alter and remove the same, as such Commissioners shall judge proper; and for these purposes, or any of them, to purchase land whereon to erect machinery, and all buildings and other things necessary for making gas, and to lay pipes, conduits, channels or gullets for conveying water, or make ponds, tanks or reservoirs for receiving water for the purpose of supplying said city, town corporate, borough, market-town or other town with water, and for supplying all things necessary for watering the streets thereof, and to water them, and to raise money by loan on debentures in manner hereinafter provided for those purposes, or either of them.

And

43. Commissioners may borrow Money for the purposes of this Act, at interest not exceeding Five per Centum.

And be it Enacted, That it shall and may be lawful for the Commissioners for the execution of this Act, in any city, town corporate, borough, market-town or other town, to borrow money from time to time to any amount necessary for providing and erecting machinery and lamp-posts, procuring and laying pipes, conduits, channels or gullets for carrying water, providing all things necessary for watering the streets thereof, or for doing any other matters or things necessary for lighting said city, town corporate, borough, market-town or other town, for procuring and laying pipes, conduits, channels or gullets for carrying to, or for making ponds, tanks or reservoirs, or for doing any other necessary matter or thing for supplying the same with water, or for watering the streets thereof from any person willing to lend the same, and to pay such persons interest for the same, at not exceeding the rate of *Five Pounds* sterling per centum per annum, so long as such money so borrowed shall remain unpaid; and to issue to the lender or lenders of money so lent debentures, in form set forth in Schedule (B.) hereunto annexed, and in no other form; which debentures shall be written or printed on parchment, and shall have a counterpart thereof to be kept by the said Commissioners, and shall be signed by the Chairman, under an order of the Commissioners, made and entered upon the minutes of their proceedings at some of their weekly meetings, and also countersigned by the Clerk to said Commissioners; and said debentures so issued shall give the holders thereof a lien upon the rates to be thereafter levied in said city, town corporate, borough, market-town or other town under the provisions of this Act, and also upon the profits arising from the sale of gas or water, as hereinafter mentioned; and such debentures may be transferred by the holder or holders thereof, by indorsement on the back thereof, and the person holding said debentures, or any of them, whose name shall be last indorsed thereon, shall be taken and held to be the proper holder or holders and proprietor or proprietors thereof.

Debentures to be issued for Money borrowed.

Debentures to give a Lien upon the Property of Commissioners under this Act.

Debentures to be transferable.

44. Where Money borrowed before passing of this Act for the purpose named in recited Act, 9 Geo. 4, c. 82, to be considered as Money borrowed under the provisions of this Act.

AND whereas it may be that the Commissioners chosen to act under the said recited Act of the ninth year of the reign of his late Majesty King GEORGE the Fourth, Chapter Eighty-two, for some cities, towns corporate, boroughs, market-towns or other towns, may, under the sanction of said Act, have proceeded to procure and erect machinery and lamp-posts, and in procuring and laying pipes, and doing other matters or things necessary for lighting said cities, towns corporate, boroughs, market-towns or other towns, or any of them, and may have borrowed money and fairly expended it in said works, and it being doubtful whether the words in the said recited Act did give authority for the same; in order to remove said doubts, BE it therefore Enacted, That all such loans of money

made to said Commissioners for and applied to such purposes as aforesaid, shall be taken and considered to be as loans now made, and debentures may issue for the same to the parties who shall have made the said loans, in the same manner as though the said loans had been made subsequent to the passing of this Act and under this Act; and such debentures so issued shall have the same force and operation as any other debentures which may be issued under this Act.

45.
Streets to be watched.
9 Geo. 4, c. 82, s. 47.

And be it Enacted, That it shall be lawful for such Commissioners, and they are hereby authorized and empowered to appoint a sufficient number of able watchmen to keep watch within any such city, town corporate, borough or market-town, or the suburbs and liberties thereof, and to appoint and pay proper salaries and wages for such watchmen, and to provide proper watch-houses and all necessary articles for such watching, and to appoint the times of watch, and the stations, and the duties of the several watchmen, and to fine and dismiss any such watchmen at the pleasure of such Commissioners.

46.
Powers o Watchmen.
9 Geo. 4, c. 82, s. 48.

And be it Enacted, That it shall be lawful for such watchmen, and they are hereby authorized and empowered to apprehend all such idle and disorderly persons as they or any of them shall find committing any breach of the peace during the night, or making any improper noise or disturbance, and to detain such persons till morning, and then to carry such person or persons before any of Her Majesty's Justices of the Peace for the borough, city, town corporate or other town or place in which such person or persons shall have been apprehended, to be dealt with according to law.

47.
Penalty for harbouring Watchmen.
9 Geo. 4, c. 82, s. 49.

And be it Enacted, That if any victualler, publican or other person or persons selling spirituous liquors, shall entertain or harbour in his or her house any watchmen appointed under this Act, during such watchmen's appointed hours of duty, every such victualler, publican or other person shall forfeit for such offence any sum not exceeding *Twenty Shillings*.

48.
Streets to be cleansed.
9 Geo. 4, c. 82, s. 50.

And be it Enacted, That it shall be lawful for the Commissioners for the execution of this Act in any city, town corporate, borough, market-town or other town, to employ or contract with scavengers or persons to cleanse and sweep and water the streets, squares, lanes and passages within any such city, town corporate, borough, market-town or other town, or the suburbs and liberties thereof, and to direct in what manner and how often the said streets, squares, lanes and passages shall be swept and cleansed and watered, and to provide all necessary articles for such purposes.

And

49.
Penalty on Persons carrying Dirt not duly authorized.
9 Geo. 4, c. 82, s. 51.

And be it Enacted, That if any person or persons shall take or carry away any dirt, dung, ashes or soil out of any of the said streets, squares, lanes and passages other than the scavengers or other persons authorized so to do by the said Commissioners as before mentioned, every such person shall, for such offence, forfeit a sum not exceeding *Twenty Shillings*.

50.
Streets to be paved, and if formerly repaired as a Turnpike or Presentment Road, may be put under Commissioners for this Act.
9 Geo. 4, c. 82, s. 52.

And be it Enacted, That it shall be lawful for the Commissioners for the execution of this Act in any city, town corporate, borough, market-town or other town, and they are hereby authorized and empowered to employ or contract with any person or persons to pave, flag, maintain and keep in order the streets, squares, lanes and passages within any such city, town corporate, borough, market-town or other town, and the suburbs and liberties thereof as aforesaid, and in such manner as such Commissioners shall direct, and to provide all necessary articles for the said purpose; and any street forming part of a road running through any such city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof as aforesaid, which may at any time before the appointment of such Commissioners have been paved, maintained or repaired as part of such road, by any board of Turnpike Commissioners, or Trustees, or by Grand Jury Presentment, or by any other body, or person or persons, or in any other manner whatsoever, shall and may from and after the appointment of Commissioners for the execution of this Act, in any such city, town corporate, borough, market-town or other town, be paved, maintained and repaired only by such Commissioners, if such Commissioners shall think fit so to determine and require: Provided, That nothing herein contained shall extend, or be construed to exonerate any such Turnpike Commissioners, or Trustees, or any other body or person or persons whatsoever, from his or their duty or obligation to maintain and repair such street or road, unless such Commissioners shall desire to take upon themselves such duty or obligation; and in such case such Commissioners shall become liable in like manner, answer for, and be punishable for any default in the discharge or observance of such duty or obligation.

51.
Wells, pumps, &c. to be dug and made. Water otherwise conveyed.

And be it Enacted, That it shall be lawful for such Commissioners, and they are hereby authorized and empowered, to cause wells to be dug, and pipes to be laid, and pumps to be erected in any streets, squares, lanes and passages of any city, town corporate, borough, market-town, or other town, as such Commissioners shall think it most advantageous for supplying water to the inhabitants, or water to be conveyed thereto and therefor in any other manner; and also to make and maintain, or cause to be made and maintained,

Fire-plugs and Fire-engines to be procured.

fire-plugs and fire-engines for extinguishing fire; and to agree with and purchase, or take leases for ever, from persons having right of water in any river or stream of water, from whence it may be desirable to convey water as aforesaid, to supply water to said inhabitants; and to purchase or take ground in like manner, where necessary to make One or more ponds or tanks for holding water for the said purpose, and to procure and lay pipes, conduits, channels or gullets for conveying said water to the said inhabitants, and to do all other matters or things necessary for supplying said inhabitants with water, and to open the ground to lay said pipes, or make said conduits, channels or gullets for conveying the said water, or from time to time to inspect or repair the same, wherever necessary to be so opened, save through any house, office, building, enclosed garden, or yards to any house or building, or through any demesne, unless with the consent of the proprietor thereof, making the occupier or occupiers of such land so opened reasonable compensation for all damage done thereby; but the said Commissioners are hereby required to lay said pipes, conduits, channels or gullets, at least Two feet deep under ground, in order that no other damage may ensue by opening ground for the said purposes to the persons holding said ground so opened, save and except the opening thereof, and covering it in again when the said pipes shall have been laid, or the said conduits, channels or gullets formed.

Right of Water to be purchased; or Ground for Ponds or Tanks, &c.; and to lay Pipes to form Conduits.

52. What to be done in case of not being able to agree for Purchases as above.

And be it Enacted, That if the said Commissioners shall not be able to agree with the holder or holders, proprietor or proprietors, of the said river or stream, or of the said land whereon to erect the said gas-machinery and buildings as aforesaid, or of the said land, whereon to form the necessary pond or ponds, or tank or tanks, as aforesaid, or for purchase of, or for lease or leases for ever of the same, or for either of them, or with the occupier or occupiers for damage done to them, or any of them, in opening the ground for laying pipes or making conduits, channels or gullets for conducting water as aforesaid; then and in such case the proprietor or proprietors, occupier or occupiers, of the said river or rivers, or the said stream or streams, or of the said land, or of either of them, or of any part of either of them, so differing with the Commissioners as aforesaid, shall leave the case of the said difference to be decided by reference and arbitration, and for that purpose shall choose one referee, being a person wholly uninterested as to the point at issue; and the said Commissioners shall choose one other similar person, to be a referee on their part, and to the award of these Two referees shall the said difference be left and decided; but should these Two referees so chosen not agree, so as to make award between the parties differing, they, the said referees, may

Referees to be chosen.

Award to be made by them.

may call in, and are hereby required to call in an umpire; and the decision of such umpire, or of such referees, in case no umpire shall be called in, shall be final; but if such person or persons so differing with the Commissioners as aforesaid shall refuse or neglect to appoint a referee for Six clear days after having been required so to do in writing by the Chairman of the said Commissioners, the same to commence from the day on which the said writing shall be served upon such person or persons so differing with the said Commissioners, personally, or left at his or her usual place of residence, then and in such case the Chairman to the said Commissioners shall set forth the same in writing, addressed to Her Majesty's Justices of the Peace, in and for the county in which the said city, town corporate, borough, market-town or other town is situate, at Petty Sessions assembled, or upon the Chief Magistrate of any city, town corporate, or borough, if any there be, and shall call upon the said Justices of the Peace or Chief Magistrate, as the case may be, to appoint a valuator to make a valuation, and award between the said parties in each case; and the said Justices of the Peace or Chief Magistrate, as the case may be, shall and are hereby required to appoint a skilful person to be the said valuator, and to swear the said valuator to make true valuation, and award between the said parties to the best of his skill, judgment and knowledge accordingly; and said valuator shall thereupon make his valuation and award, which valuation and award shall be final between the said parties; and thereupon the said Commissioners shall pay the said valuator whatever sum or sums of money the said Justices of the Peace or Chief Magistrate, as the case may be, shall award and direct to be paid in each such case for his trouble, together with all costs attending the said appeal to the said Justices of the Peace, or Chief Magistrate, as the case may be; and they the said Commissioners may deduct from the said purchase-money, or, in case of such lease or leases as aforesaid, thereout or out of or from the rents first accruing due as aforesaid, the entire of such sum or sums so paid to the said valuator, together with costs as aforesaid; and if deducted from purchase-money, the residue of such sum as afterwards shall remain of the whole amount awarded by said valuator to the person or persons so differing with said Commissioners as aforesaid, shall be, and so shall be taken to be, to all intents and purposes, as the whole sum said person or persons are or shall be entitled to under said award; but if said award be of and for an annual rent, then and in such case the said amount so paid by said Commissioners to said valuator, and for said costs, shall be deducted by said Commissioners out of the annual rent or rents next first accruing due under said award; and the residue of the said annual rent so awarded shall be, and shall so be taken to be, to all intents and purposes, the full rent due out of said premises, or any of them, to whom the same shall have been so awarded; and upon

Umpire to be chosen. Decision final.

How to act when refusal or neglect is made to appoint Referees.

Valuator to be appointed.

His award final.

Valuator how to be paid.

His expenses deducted out of Purchase-money or Rent.

Residue of Purchase-money to be considered the whole sum due.

Residue of Rent to be considered the whole Rent due.

Upon payment or tender of Purchase-money or Rents to persons interested, or in case of refusal to receive same into the Bank of Ireland;

payment or tender of such sum or sums of money as shall have been agreed for between the parties as aforesaid, or determined or adjusted between the parties as hereinbefore provided for the purchase or rent of such right of water, or of such land or lands, or for such damage in opening ground for pipes, conduits, channels or gullets as hereinbefore mentioned, to such person or persons as shall be interested therein, or entitled to receive such money in manner herein provided for respectively at any time after the same shall have been so agreed for or determined as aforesaid; or if the person or persons so entitled or interested, or any of them, cannot be found, or shall refuse to receive the same, or shall refuse to execute a conveyance or conveyances, or lease or leases for ever of such right of water or land, or to give possession thereof, or for damage done in opening said ground for pipes, conduits, channels or gullets as aforesaid, then upon payment of said sum or sums of money severally into the Bank of Ireland, or any branch of the said bank, for the use of such person or persons so interested or entitled as

or of giving notice of desire of Commissioners to execute Leases.

aforesaid; or in case of a lease or leases as aforesaid, the said Commissioners shall leave at the usual place of residence of such owner or owners, occupier or occupiers, proprietor or proprietors of said water or land, a notice in writing, signed by their Chairman sitting for the award so made as aforesaid, and the willingness of said Commissioners to abide thereby and to take out leases accordingly,

Commissioners may enter upon any of said Premises, and use the same as their own.

it shall be lawful to and for the said Commissioners and their agents, servants and workmen, immediately to enter upon and into such lands, and to use the water of such river or stream, or to open such ground for laying pipes, or making conduits, channels or gullets as aforesaid; and the fee-simple and inheritance of all such lands agreed for, awarded to be purchased as aforesaid, together with the yearly profits thereof, and all the estate, use, trust and interest of any person or persons therein, shall from thenceforth be vested in and become the sole property of said Commissioners for the purposes of this Act, or if the said award shall be of and for a lease or leases for ever, then and in such case said Commissioners shall hold said premise or premises as under a lease or leases for ever from the time the person or persons to whom the rent or rents thereof and thereout shall have been awarded under this Act, till such person

Bar to all other claims.

or persons shall be made duly to execute the same; and such payment, tender or investment shall not only bar all right, title, claim, interest and demand of the person or persons to whom such payment or tenders shall or ought to have been made, but shall extend to and be deemed, taken and construed to bar the driver of the wife of every such person, and all estates tail and other estates in reversion and remainder of his, her and their issue, and of any and every other person or persons whomsoever therein.

And

53.
Sewers, drains, &c. to be made, and Fire Engines kept.
9 Geo. 4, c. 82, s. 54.

And be it Enacted, That it shall and may be lawful for such Commissioners, and they are hereby authorized and empowered to make or cause to be made common sewers, drains and watercourses, and the same from time to time to repair and cleanse, and to purchase One or more fire-engine or engines, with all necessary apparatus, and to name and appoint during pleasure, or to contract with a proper person or persons to take charge of such engine or engines, with such number of persons as may be necessary to work such engine or engines, with such salaries and allowances, and under such regulations as such Commissioners shall judge proper, or to hire or rent any convenient house or houses for keeping such engine or engines.

54.
Drains to be cleansed under the inspection of Commissioners.
9 Geo. 4, c. 82, s. 55.

And be it Enacted, That all private drains or sewers within any of such city, borough or town, issuing into any public drain or sewer, shall, when and as the said Commissioners shall require, be repaired or cleansed under the inspection and direction of any person thereto authorized or appointed by the said Commissioners at the costs and charges of the owner or owners, occupier or occupiers of the premises to which the said private sewers or drains may belong; but if such owner or owners, occupier or occupiers of the said premises to which said private sewers or drains may belong shall refuse or neglect to pay such costs and charges incurred in repairing or cleansing the said sewers or drains as aforesaid for Three clear days after same shall have been demanded of him, her or them by the said Commissioners, or any of them, or by the Clerk to the said Commissioners, or by any person or persons duly authorized by the said Commissioners to make said demand on their behalf, then and in such case it shall and may be lawful for such Commissioners to levy the amount of such costs and charges incurred as aforesaid, together with the costs of distress upon any goods and chattels found upon such premises, or upon the goods and chattels of the owner wherever found, and every such distress shall be made in like manner as by this Act is directed in the case of distress for assessments remaining unpaid, and with and subject to the like powers and regulations.

55.
Streets to be named, and Houses to be numbered.
9 Geo. 4, c. 82, s. 56.

And be it Enacted, That it shall be lawful for such Commissioners, and they are hereby authorized and empowered to cause the said streets, squares, lanes and passages to be named, and the name of each to be printed or otherwise inscribed at or near the end or corner thereof, and also to cause the houses, buildings, shops and warehouses to be numbered, and the figures denoting the numbers to be painted on the doors.

56. Cellars, Stairs or other Nuisance to be closed or removed. 9 Geo. 4, c. 82, s. 57.

And be it Enacted, That it shall be lawful for such Commissioners, and they are hereby authorized and empowered to cause any penthouse, bow-window, sign or sign-post, or irons or fences or grates, or any cellar or other underground apartment, or any stairs or opening into such apartment, or any other thing encroaching upon or projecting into any street, lane, square or passage which may seem dangerous to passengers, to be removed, altered, closed up or grated over, or otherwise sufficiently secured, and for such purposes it shall be lawful for such Commissioners to require any alteration to be made in such manner as they may deem fit, and within such time as they shall appoint by written order signifying their desire in such respect, and subscribed by the Chairman and Clerk of the Commissioners for the time being, issued, and expressed to be issued, pursuant to a resolution adopted at a meeting of such Commissioners, and delivered to the occupier of the premises causing such encroachment, if the same be occupied, and if not occupied, then and in such case to the owner of such premises if resident within the same city, town corporate, borough or town; and if not resident within the same, and if the premises be unoccupied, then and in such case affixed in some part of the same premises; and if any such alteration shall not be made, done or performed, agreeably to such order, within the time therein specified, it shall be lawful for such Commissioners to cause the same to be made, done and performed, and to levy the expenses thereof, together with the costs of distress, upon any goods and chattels of the owner wheresoever found; and every such distress shall be made in like manner as by this Act is directed in the case of distress for assessments remaining unpaid, and with and subject to the like powers and regulations.

57. Commissioners may break up or open Streets, Roads, &c. 9 Geo. 4, c. 82, s. 58.

And be it Enacted, That it shall and may be lawful for the Commissioners for the execution of this Act, in any city, borough, town corporate, market-town or other town, and they are hereby authorized and empowered, so often as to them may seem fit, to break up or open, or by warrant, subscribed by the Chairman and Clerk of the Commissioners for the time being, to authorize any person or persons with whom they shall or may contract, to break up or open any street, square, lane or passage, within any such city, town corporate, borough, market-town or other town, and the suburbs and liberties thereof as aforesaid, for the purpose of laying pipes or digging wells or any other of the purposes of this Act, notwithstanding any such street, square, lane or passage may form part of a turnpike-road or county road: Provided, That such Commissioners shall and they are hereby required to cause such holes and openings to be properly secured and fenced at night, and lights set up thereby, so as to warn passengers and prevent accidents.

And

58.
Footways to be cleansed.
9 Geo. 4, c. 82, s. 59.

And be it Enacted, That it shall and may be lawful for the Commissioners acting in execution of this Act, in any city, borough or town, if they shall so think fit, to direct and require the respective owners and occupiers of all houses or other buildings or premises abutting upon any of such streets, squares, lanes or passages within such city, borough or town, so often, and at such times, and at and under any such penalty as to the said Commissioners shall seem meet, not exceeding *Two Shillings* for each default, to cause the footways or foot-pavements to be well and sufficiently swept and cleansed, before, behind and on the sides of the same, as the situation thereof shall require, and the dirt and soil arising from such sweeping and cleansing, to be collected and put together in such place and manner as to the said Commissioners shall seem meet; and the said Commissioners, if they shall think fit to establish such order and regulation, shall cause the same to be publicly notified in manner hereinbefore appointed for the notification of the election of Commissioners under this Act.

59.
Commissioners liable for Nuisances from Gas Works.
9 Geo. 4, c. 82, s. 60.

Provided always, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent any person or persons from proceeding by indictment, action or otherwise, against any such Commissioners, their officers, servants or workmen, or any body politic or corporate, for or in respect of any nuisance or injury arising from or occasioned by gas works.

60.
Expenses of Lighting, &c. to be defrayed out of the Funds arising from Assessment.
9 Geo. 4, c. 82, s. 61.

And be it Enacted, That the expenses of printing, stationery, coals and candles for the purposes of this Act, and all expenses of lighting, watching, cleansing and paving, of digging wells, laying pipes, erecting pumps or otherwise supplying water, of making and maintaining fire-plugs, and making sewers, drains and watercourses, of purchasing fire-engines and employing workmen, and of renting offices for the transaction of business, or houses for keeping fire-engines, and of naming the streets, squares, lanes and passages, and numbering the houses, buildings, shops, warehouses, and all other costs and charges of providing the necessary articles for all and every of the aforesaid purposes, and relating to all other things which, under this Act, any Commissioners for the execution of this Act are directed or empowered to do, in any city, town corporate, borough, market-town or other town, shall be paid out of any rates, assessments and sums of money, authorized to be raised and levied under this Act, in any city, town corporate, borough, market-town or other town respectively, and from the other funds by this Act directed to be applied to such expenses, or by the monies borrowed for any of said purposes as hereinbefore set forth: Provided always, That such rates, assessments, monies and funds, or any part thereof,

shall not be applied to defray or satisfy any penalties to which any such Commissioners may render themselves liable, or any damages or costs which may be recovered against and incurred by any such Commissioners, in any suit or process at law or equity whatsoever, for or by reason of any wilful misfeasance or malfeasance on the part of any such Commissioners.

61. Property of Pavements, &c. vested in the Commissioners. 9 Geo. 4, c. 82, s. 62.

And be it Enacted, That the property of all pavement flags, lamps, wells, buckets, pipes, pumps, water, fire-plugs, fire-engines, and any and every other material, article or thing, purchased or paid for by any monies applicable to the purposes of this Act, shall be vested in the Commissioners for the time being for the carrying this Act into execution, in any city, town corporate, borough, market-town, or other town respectively; and it shall be lawful for such Commissioners to bring actions or prefer indictments against any person stealing or carrying away or injuring any such articles, matters or things, stating the property to be in such Commissioners by virtue of this Act, and no change made or happening to be made in or among the persons composing any body of Commissioners, shall in any action, indictment or other civil or criminal proceeding whatsoever, by, for or on behalf of or against or concerning the said Commissioners or their property, abate or otherwise stay, delay or affect any such action, indictment or proceeding.

62. Penalty for injuring or Damage, &c. to Works, &c. made under this Act. 9 Geo. 4, c. 82, s. 63.

And be it Enacted, That if any person or persons shall wilfully injure, damage or destroy any watch-houses or watch-box, or any lamp, lamp-iron or lamp-post, or any well, pipe, spring, pump-water, pond, reservoir or tank for water, watercourse, fire-plugs, sewer, drain or fire-engine, or shall wantonly extinguish any lamp or lamps, or shall tear up the pavement or flagway in any street, square, lane or passage within any city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof, in which this Act shall be carried into execution, or shall in any other manner wilfully damage, injure or destroy any article or material, matter or thing employed for effectuating the purposes of this Act, or any work which any Commissioners for the execution of this Act may undertake for such purposes or any of them, it shall and may be lawful for any person or persons to apprehend and detain any and every such offender until such offender can be carried before any Justice of the Peace; and every person so offending, being convicted of such offence before Two or more such Justices at Petty Sessions assembled, shall for the First offence forfeit a sum not exceeding *Five Pounds*, and for the Second offence a sum not exceeding Ten Pounds, and for the Third and every subsequent offence a sum not exceeding Fifteen Pounds, provided that the levying

levying any such penalty shall be no bar to any action at the suit of the said Commissioners.

63. For preventing Nuisances. 9 Geo. 4, c. 82, s. 64.

And be it Enacted, That every person who shall commit any, or be guilty of the offences hereinafter specified in any city, town corporate, borough, market-town or other town in which this Act shall be carried into execution, shall be subject and liable to such penalties as are hereinafter specified and set forth; (that is to say) if any person shall in or upon any way used or appointed to be used as a footway only, in any such city, town corporate, borough, market-town or other town, draw, drive or carry any truck, sledge, wheelbarrow, bier or other carriage, except directly across such footway, on necessary occasions, or shall lead, ride or drive on any such footway any horse or other beast, except directly across the same as aforesaid, or shall suffer to stand, or shall tie or fasten any horse or other beast on or across the same, or shall in or on any of the streets, squares, lanes or passages within any such city, town corporate, borough, market-town or other town, set up any stall or table, or erect any shade or awning, or expose any goods or wares for sale, or place or leave therein or thereon any thing whatsoever, so as to create any impediment or annoyance to the free passage thereof, and shall not remove the same where thereunto required by any person whomsoever, or shall in or on any such streets, squares, lanes and passages ride or drive any horse or other animal in a furious and improper manner, or shall thereon drive or suffer to proceed any cart, waggon or other carriage, without some person leading or guiding with reins the horse or horses yoked thereunto, or shall leave or suffer to remain in any part of such streets, squares, lanes or passages any cart, waggon or other carriage, with any horse or horses, or other cattle or animal being yoked thereunto, without a proper person to take charge of same, or shall place or leave in or on any of such streets, squares, lanes and passages, in such a manner as to obstruct or endanger the passage thereof, any cart, waggon or other carriage, or shall show or expose any stallion or stone-horse, kept for the purpose of being let to mares, except in such place or places as the Commissioners for the execution of this Act shall appoint, and except in directly proceeding to and returning from such place, or shall in or on any cart, waggon or other carriage carry or convey any timber, iron or other thing in such manner as to protrude *Two* Feet beyond the wheel of any such cart, waggon or other carriage, or shall in or on any of such streets, squares, lanes and passages place or leave any mortar, lime, sand, bricks, stones, timber or other materials for building, or shall sift or screen any lime, sand or other thing, such mortar or other thing being so placed or left, or such sifting or screening being

without the permission of the Commissioners for the execution of this Act, or not so defended and inclosed within a frail or otherwise, and in conformity to such regulations as such Commissioners at their discretion shall impose, and which they are hereby authorized to impose, or shall winnow or screen any corn, or shall cast or leave any dung, dirt, rubbish or other thing, or suffer to flow or fall from any slaughter-house, soap-house, tan-yard or other yard or premises any muck, mire, blood or other noisome matter in or upon such streets, squares, lanes and passages, except only in such manner and in such place or places as such Commissioners shall direct and appoint or allow, or shall in any such streets, lanes and passages kill or slaughter, or scald and dress any animal for meat, or shall in any such streets, lanes or passages play bullets, quoits or other dangerous game, to the annoyance or obstruction of passengers, or shall make any bonfire, or let off any fireworks or squibs, or unnecessarily and wantonly discharge any fire-arms, or if any person shall do or commit any act, or shall leave or place, or set up any material or thing whatever, which shall cause or create any impediment, obstruction, nuisance, danger or annoyance in or to the free passage of such streets, squares, lanes or passages, every such person shall for the First time of committing such offence forfeit and pay a sum not exceeding *Twenty Shillings* and not less than *Five Shillings*, and for the Second time of committing any such offence shall forfeit and pay a sum not exceeding *Forty Shillings* and not less than *Ten Shillings*, and for the Third or any subsequent time of committing any offence, shall forfeit and pay a sum not exceeding *Five Pounds* and not less than *Twenty Shillings*: Provided always, That every such offence shall be deemed to be a First offence in all cases, unless the same shall be proved to have been committed within *One calendar Month* next after some such former offence of the same nature and quality.

64. Not to prevent exposing of Goods for Sale in Markets or places of holding Fairs. 9 Geo. 4, c. 82, s. 65.

Provided always, and be it Enacted, That nothing herein contained shall extend or be construed to extend to prevent or hinder any person or persons from selling or exposing to sale any horse, beast or other cattle, or from placing any stool, bench, stall or booth for the sale of goods and wares, or from exposing to sale any meat, poultry, vegetables, fruit or other goods, wares and merchandise whatsoever, in the usual and accustomed market, or other place or places within any such city, borough or town, or in the usual places of holding public fairs, on the usual days of such market or fairs; and that it shall and may be lawful for any person to leave on any quay, wharf or other place any timber, flax-seed, bales, or goods, ware, merchandizes, for such time as the Commissioners for the execution of this Act shall appoint and allow, and which they are hereby authorized

rized and empowered to appoint and allow, so as the same be disposed and piled in such manner as the said Commissioners shall direct, and so as from Sun-set till Sun-rise sufficient light be placed on such timber or other things, so as to warn passengers and prevent accidents.

65. Cattle found astray may be impounded, and the Owner thereof fined. 9 Geo. 4, c. 82, s. 66.

And be it Enacted, That if any horse, cow, swine or other beast shall be found wandering or straying in or about any streets, squares, lanes and passages in any city or borough or town, in which this Act shall be carried into execution, it shall and may be lawful for any person whatsoever to impound such horse, cow, swine or other beast in the nearest common pound, and the owner thereof shall for every such beast so found wandering or straying as aforesaid forfeit a sum not exceeding Five Shillings, together with the reasonable charges of impounding and keeping such beast, and such beast shall be detained until the said penalty and charges shall be paid; and if the same be not paid within *Seven* Days after such beast shall be impounded, it shall be lawful for any Two Justices of the Peace acting in or for the county or place within which such pound shall be situate, at Petty Sessions assembled, or for any Chief Magistrate of any city, town corporate or borough, if any there be, upon the application of the person who shall have impounded such beast, to appoint and notify, by public advertisement or otherwise, as to such Chief Magistrate or Justices shall seem meet, a time and place for the sale of such beast, and such time shall be no sooner than *Fourteen* Days from the date of the first notification thereof; and at the time so appointed and notified, such beast shall be sold by public auction, unless the said penalty, with all costs and charges of impounding and advertising such beast, shall be then and thereupon paid; and the money arising from such sale shall be, in the first instance, applied to the payment of such costs and charges; and the person who impounded such beast shall thereout receive the sum of Five Shillings; and the residue of such money shall be paid to the Treasurer of such Commissioners, to be by him paid upon application to the person whose property such beast shall appear to have been, and in default of and until such application, shall be applied to the purposes of this Act.

66. Explanation of certain Words used in this Act.

And be it Enacted, That wherever in this Act the words "value" or "valuation" are introduced, the same shall be held to refer to the valuation last made or amended under the directions of the Poor Law Guardians of the Poor Law Union, in which city, borough, town corporate, market-town or other town shall be situate; and that wherever the word "rate" is introduced into this Act, the same shall be held to refer to a rate made, or to be made, for the purposes of this Act upon such valuation.

67. Commissioners to be Market Jurors.

And be it Enacted, That all Commissioners elected under this Act for the purpose of carrying into execution the provisions thereof in any city, town corporate, borough, market-town or other town, shall be Market Jurors therein, and shall have all and the same powers and authorities as are given to Market Jurors in cities by an Act made in the Parliament of Ireland in the forty-sixth year of his late Majesty King GEORGE the Third, intituled, "An Act for establishing Market Juries in Cities," or by any other Act or Acts now of force in Ireland; and such Commissioners shall each of them make a declaration and affirmation before any other of the said Commissioners, which all said Commissioners are hereby empowered and required to take and receive one from the other, to the same purport as the oath in said Act of the forty-sixth year of the reign of his Majesty the late King GEORGE the Third is by Market Jurors required to be taken; and if any of said Commissioners shall act in any way as Commissioners under this Act before they or any of them shall have made said declaration and affirmation as Market Jurors, they or any of them so doing shall be considered and taken and adjudged, and deemed to have forfeited the sum of *Five Pounds* sterling, as hereinbefore mentioned, as incurred by any Commissioner who shall vote, or shall do any act or thing as a Commissioner, without having made the declaration and affirmation in such case required, and the same shall be sued for and recovered in like manner as the forfeiture in said first-mentioned case, as herein set forth; and said Commissioners, or any of them, acting as Market Jurors, shall bring offenders, as in said Act of the forty-sixth year of the reign of his late Majesty King GEORGE the Third is enacted, before Two or more Justices of the Peace at Petty Sessions assembled, where there shall not be any such Chief Magistrate as therein mentioned, and instead of before the Chief Magistrate of a city, as therein required; and such Justices so assembled at Petty Sessions, shall have all the powers and authorities to act as are given by the said Act to Chief Magistrates of cities, and they are hereby required to act in all such cases brought before them by said Commissioners, or any of them, acting as Market Jurors, as said Chief Magistrate of any city is by said Act required to act; and though all said Commissioners, having made such declaration and affirmation in manner aforesaid, are hereby made eligible to act, and may at all times act as Market Jurors in the city, town corporate, borough, market-town or other town for which they were elected Commissioners, the *One-third* of Commissioners whose turn it shall be to act as Commissioners as aforesaid, are hereby required to act as such Market Jurors, and on refusal or neglect to act as such Market Jurors, they or any of them so refusing or neglecting to act, shall for each such refusal or neglect forfeit the sum of *Ten Shillings* sterling; and all or any of the forfeitures so incurred by them, or sued for by them, shall be recovered

To make Declaration and Affirmation as Market Jurors.

Penalties on acting without having made Declaration and Affirmation as above.

All Commissioners empowered to act, but One-third required to act as Market Jurors, under penalty of forfeiting Ten Shillings in every case of refusal or neglect.

recovered and recoverable as any other forfeitures or penalties not otherwise provided for are by this Act made recoverable.

68. Penalties and Forfeitures how sued for and recovered. 9 Geo. 4, c. 82, s. 67.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act (the recovery and application whereof are not specially provided for), may, in case of non-payment thereof, be recovered in a summary way by the order and adjudication of any Chief Magistrate for the city, town corporate or borough in which such penalty shall be incurred, or of any Two Justices for the district or division within which any city, town corporate, market-town or other town in which such penalty shall be incurred shall be situate, in Petty Sessions assembled, on complaint to him or them for that purpose exhibited, and shall afterwards be levied, as well as the costs of such proceedings in case of non-payment, by distress and sale of the goods and chattels of the offender or offenders, or person or persons liable to pay the same, by warrant under the hand and seal of such Chief Magistrate or Justices; and such Chief Magistrate or Justices are hereby authorized and required to summon before him or them any witness or witnesses, and to examine such witness or witnesses upon oath or affirmation, of and concerning all or any such offences, matters or things, and to hear and determine the same; and the overplus (if any) of the money so levied or recovered, after discharging the fine, penalty or forfeiture for which such warrant shall be issued, and the costs and expenses of recovering and levying the same, shall be returned upon demand to the owner or owners of the goods or chattels so seized or distrained; and in case such penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such Justices to order the offender or offenders so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender or offenders shall give sufficient security, to the satisfaction of such Justices, for his or their appearance before such Justices on such day or days as shall be appointed for the return of such warrant of distress, such day or days not being more than *Seven* Days from the time of taking any such security, and which security the said Justice is hereby empowered to take, by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such Justices, or any other Justice of the Peace, for such city, town corporate, borough, county or place as aforesaid, and they and he are hereby authorized and required, by warrant under their or his hand and seal, to cause such offender or offenders to be committed to the gaol of such city, town corporate, borough or place, there to be kept to hard labour, and to remain without bail or mainprize for any

term not exceeding *One* calendar Month, if the conviction be for a First offence, and not exceeding *Two* calendar Months if the conviction be for a Second offence, and not exceeding *Three* calendar Months if the conviction be for a Third or any subsequent offence, unless such penalties or forfeitures respectively, and all reasonable charges shall be sooner paid and satisfied; and *One Moiety* of such penalties or forfeitures when so levied shall be paid to the person who shall sue or prosecute for the same, and the other *Moiety* shall be paid to the Treasurer or Clerk of the Commissioners for the execution of this Act, to be applied to the purposes of this Act, in the city, town corporate, borough, market-town or other town in which such offence shall be committed.

Application of Penalties and Forfeitures.

69. Contracts to be made under sealed Tenders called for by public Advertisement.

And be it Enacted, That no contract made by any Commissioners for the execution of this Act shall be valid or binding unless made under sealed tenders and proposals delivered in such manner as such Commissioners shall, by public advertisement, openly appoint and notify; and that in case any such Commissioner, or the Treasurer or Clerk of such Commissioner, or any joint stock company or partnership of or in which such Commissioner, Treasurer or Clerk is or shall be a member, or shall have any interest, shall be or become a party to such contract, the same shall be voidable at the discretion of the Commissioners for the time being.

No Commissioner, Treasurer or Clerk to have any interest in any such Contract.
9 Geo. 4, c. 82, s. 68.

70. Penalty on any Commissioners being interested in any Contract.
9 Geo. 4, c. 82, s. 69.

And be it Enacted, That if any Commissioner for the execution of this Act in any city, town corporate, borough, market-town or other town, or any Treasurer or Clerk of any such Commissioners, shall, directly or indirectly, contract with, or shall be or become in any manner beneficially interested in, any contract made with any Commissioners for the execution of this Act, every such Commissioner, Treasurer or Clerk shall thereupon be and become, and is hereby declared to be, disqualified from continuing to act in his capacity of Commissioner, Treasurer or Clerk; and the place of any such Commissioner, Treasurer or Clerk shall be declared vacant, and shall be supplied in such manner as by this Act is directed in case of a vacancy occasioned by any other cause; and forfeit the sum of One hundred Pounds to any person being a householder within such city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof as aforesaid, who shall sue for the same, to be recovered, with full costs of suit, by action of debt or on the case, or by bill, plaint or information, in any of Her Majesty's Courts of Record, in which no essoign, protection, wager of law, nor more than one imparlance shall be allowed.

71. Proviso as to Contract devolving on any Commissioners, &c. by Devise, &c.
9 Geo. 4, c. 82, s. 70.

Provided always, and be it Enacted, That in case any interest in any such contract as aforesaid shall by devise, succession or inheritance

ritance become vested in or devolve upon any such Commissioner, Treasurer or Clerk, and that he shall forthwith make discovery of the same, such contract shall not be thereupon liable to be avoided, nor such forfeiture as aforesaid incurred; but the party in whom such interest shall vest or devolve shall be thereby disqualified as aforesaid, and his place supplied accordingly.

72. Form of Conviction. 9 Geo. 4, c. 82, s. 71.

And be it Enacted, That the Chief Magistrate or Justices of the Peace as aforesaid, before whom any person or persons shall be convicted of any offence under this Act, shall and may cause the conviction to be drawn up in form of words as the case shall happen, as set forth in Schedule (A.), Number 3, to this Act appended, or in any other to the same effect; and every such Justices are hereby required, in any warrant of committal issued in default of payment of any such penalty, to specify and set forth the amount of such penalty.

73. Penalty may be made at any time, and the Parties released.

Provided always, and be it Enacted, That whenever any fine or penalty imposed upon or adjudged against any offender by any Chief Magistrate or Justices of the Peace under this Act as aforesaid, shall not be paid forthwith upon conviction, and the offender shall in default of such payment be committed for any term whatsoever, it shall and may be lawful for such offender at any time to make payment of such penalty, and such offender shall then and upon such payment be forthwith discharged out of custody, notwithstanding the term for which such offender shall have been committed shall be then unexpired.

74. Appeal from Conviction. 9 Geo. 4, c. 82, s. 73.

Provided always, and be it Enacted, That it shall and may be lawful for any person who shall think himself or herself aggrieved by the judgment of any Chief Magistrate or Justices of the Peace as aforesaid, upon any conviction had or made by virtue of this Act, to appeal to the Justices of the Peace at the next General Quarter Sessions to be holden for the city, town corporate, borough, market-town or other town in which such conviction shall have been made, or for the county or riding in which any place not being a city, town corporate, borough, market-town or other town shall be situate; and such person so appealing shall, before some Justice for such county, city, town corporate, borough, market-town, or other town or place, enter into recognizance with Two sufficient sureties, conditioned in a penalty of *Double* the amount of the fine or penalty adjudged by such conviction, to appear at such Sessions, and to abide the hearing of such appeal, and upon entering into such recognizances such person shall be forthwith discharged out of custody; and it shall be lawful for the Justices at such Sessions,

and they are hereby empowered and required to hear and determine the matter of such appeal, and to make such order therein as shall be agreeable to the circumstances of the case, and to award costs at their discretion against either party; and in case such Justices shall adjudge the party appealing to pay any fine or penalty or costs, and such party shall fail to pay the same, such Justices shall and may commit such party for such term as any Chief Magistrate or Justices as aforesaid might have done in the like cases, and subject to the like restrictions and provisions as are hereinbefore contained in the case of a conviction or committal by any such Chief Magistrate or Justices as aforesaid.

75. Limitations of Actions.

Notice.

Tender of amends, venue, &c. 9 Geo. 4, c. 82, s. 74.

And be it Enacted, That no action, suit or proceeding shall be commenced or prosecuted against any Commissioner or other person or persons for any thing done in pursuance of this Act, until after *Thirty* Days' notice thereof shall be given to such Commissioner or other person or persons, nor after a sufficient satisfaction of tender thereof had been made to the party or parties aggrieved, nor after the expiration of Three calendar Months next after the fact committed; and every such action, suit or prosecution shall be laid or brought in the county, county of a city or county of a town where the case of action shall have arisen, and not elsewhere; and the defendant or defendants in every such action, suit or prosecution shall and may plead generally "Not guilty," and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by authority of this Act; and if any replevin shall be brought for any cattle, goods or chattels seized or taken by virtue or in pursuance of this Act, it shall and may be lawful and sufficient to and for the defendant or defendants, or avowant or avowants, in any such replevin to avow, plead or make cognizance generally, that he or they took the same cattle, goods or chattels as a distress, by force of the statute in that case made and provided, without more particularly setting forth this Act, or the cause of making or detaining the said distress, or making any other more special plea, avowry or cognizance, any thing herein contained to the contrary notwithstanding; and if it shall appear that the matter on which the cause of action arose was done, or the distress replevied, made in pursuance of this Act, or that such action or suit shall have been brought before the expiration of Thirty Days after notice thereof given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same as aforesaid, or shall be brought in any other county, county of a city or county of a town than as aforesaid, then the Jury shall find for the defendant or defendants, avowant or avowants; and upon such verdict,

verdict, or if the plaintiff or plaintiffs shall be nonsuited, or shall discontinue his, her or their action, suit or prosecution, after the defendant or defendants shall have appeared, or upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants, avowant or avowants, shall recover Double costs, and shall have such remedy for the same as any defendant or defendants hath or have in other cases of costs given by law.

76.
Commissioners here to be described in Actions, &c.
9 Geo. 4, c. 82, s 75.

And be it Enacted, That in all actions, suits, prosecutions or indictments brought by or against any Commissioner or Commissioners under this Act, he or they shall be sufficiently described as a Commissioner or Commissioners of [the city, town corporate, borough, market-town or other town, as the case may be] of appointed by virtue of an Act made in the year of the reign of Queen VICTORIA, intituled [setting forth the title of this Act].

77.
Inhabitants, though paying Rates, to be competent Witnesses.
9 Geo. 4, c. 82, s. 76.

And be it Enacted, That in all actions, suits or legal proceedings whatsoever brought, commenced or had by or against any Commissioner or Commissioners for the execution of this Act, in any city, town corporate, borough, market-town or other town, concerning or in respect of any matter, act or thing done by virtue or under pretence of any provisions of this Act contained, any inhabitant of any such city, town corporate, borough, market-town or other town, or the suburbs or liberties thereof, or other person rated as herein aforesaid, shall be a good and competent witness, although such inhabitant or other person as aforesaid shall or may pay or be liable to the payment of any rate, assessment or sum or sums of money under this Act, or any of the provisions therein contained.

78.

And be it Enacted, That whenever notice shall by this Act be required to be given, or publication made of any matter or thing to be done under the provisions of this Act not otherwise by this Act specially provided for, such notice shall be given or publication made by hand-bills affixed on the principal outward door or doors of every parish Church, Chapel, Market-house or place where markets are usually holden, on the Guild-hall or Town-hall, if any, on the door or other place appointed of the Sessions-house where the General Quarter Sessions of the Peace is appointed to be holden, if any, and also on the door or other place appointed as the Petty Sessions-house, if any, of or for such city, town corporate, borough, market-town or other town.

79. Nothing in this Act to extend to alter the Act of the 3d & 4th year of Her Majesty, c. 108.

And be it Enacted, That nothing in this Act contained shall extend or be construed to extend to repeal, alter, amend or in anywise interfere with an Act, or any part of same, passed in the third and fourth year of Her Majesty Queen VICTORIA, chapter One hundred and eight, intituled, "An Act for the Regulation of Municipal Corporations in Ireland," but that said recited Act shall be and remain to all intents and purposes just as though this Act had not passed.

SCHEDULES

SCHEDULES

To which this ACT refers.

SCHEDULE (A., No. 1.)

Form of Notice.

Take Notice,—I, , of , in the county of , Town Improvement Rate-collector, having been duly appointed Rate-collector of said [city, town corporate, borough, market-town or other town, as the case may be], by warrant bearing date the day of 18 , signed by the Chairman and Clerk of the Commissioners for said [city, town corporate, borough, market-town or other town, as the case may be], elected pursuant to an Act passed in the reign of Her Majesty Queen Victoria, do hereby require to be paid the sum due by you for rate for the year 18 , under said Act, out of your [house, tenement, land or premise, as the case may be], valued at pounds shillings and pence sterling yearly, and rated at per pound thereon, amounting to pounds shillings and pence for this rate; and that I require you to pay the same to me at my house at , within days from the date hereof.

To } Collector of Rates.

SCHEDULE (A., No. 2.)

Form of Warrant by the Chairman of Commissioners.

Whereas it has been certified to me by , Collector of Rates, duly appointed by the Commissioners elected under the Act of the year of the reign of Her Majesty Queen Victoria, for the improvement of [cities, towns corporate, boroughs, market-towns or other towns, as the case may be], of in the county of , that the sum of pounds shillings and pence sterling, is due for rates ordered to be levied pursuant to said Act, by , of ; and that the same has been duly demanded by him, the said , Collector of Rates of and from , at

Now, I hereby, in pursuance of the provisions of said Act, authorize, empower and direct the said , Collector of Rates, to enter upon the premises of the said , situate at , so chargeable and charged as aforesaid, and to seize and distrain the goods and chattels of any person whomsoever which he, the said Collector of Rates, shall or may find thereon; and if sufficient distress cannot be found thereon, then to seize and distrain the goods and chattels of the said wherever the same can be found, and for that purpose to enter any dwelling-house, shop, warehouse, tenement, land or other premise within said [city, town corporate, borough, market-town or other town, as the case may be] or the suburbs thereof,

thereof, belonging to or in the occupation of the said ; and if the sum of pounds shillings and pence sterling be not paid within Fourteen Days from the time of making such seizure or distress, together with the costs of making, guarding and disposing of such seizure or distress, I hereby authorize, empower and direct the said , Collector of Rates, to sell the goods and chattels so seized or distrained by public cant or auction for payment of the said sum of pounds shillings and pence sterling, being the said amount of rate due by the said and for the further sum of pounds shillings and pence sterling, being the amount of costs in making, guarding and disposing of such seizure or distress; and the overplus of such sale, if any there shall be, I hereby require and direct the said , Collector of Rates, to pay over to the said or to his or her representative.

Given under my hand at this day of 18 .

To Collector of Rates.

Chairman of the said Commissioners.

SCHEDULE (A., No. 3.)

Form of Conviction.

City, Borough or Place, to wit. } Be it Remembered, That on the day of in the year of our Lord A. B. is convicted before us, C. D. and E. F., Two of Her Majesty's Justices of the Peace for the said city, borough, town, place or county, by virtue of an Act made in the year of the reign of Queen Victoria, intituled, [here set forth the title of this Act] of having [here set forth the offence]; and we do hereby adjudge that the said A. B. shall, for the said offence, forfeit the sum of pounds shillings and pence sterling.

Given under our hands and seals this day of in the year of our Lord

C. D. (L. S.)
E. F. (L. S.)

SCHEDULE (B.)

Form of Debenture.

of having lent to the Commissioners appointed by the inhabitants of the town of for the improvement of said town, under an Act made in the year of the reign of Queen Victoria, the sum of pounds shillings and pence sterling, to be expended by them in the improvement of said town, in manner as in said Act mentioned, and in no other manner whatever, the said or the holder of this Debenture, transferred by indorsement hereon, is entitled to receive the same in year from the date hereof, together with interest thereon at the rate of pounds shillings and pence sterling per centum per annum, on the said principal sum of pounds shillings and pence sterling, to be paid half-yearly from the date hereof, until the said principal sum of pounds shillings and pence sterling shall be discharged, out of the rates to be levied off of the inhabitants of said town, pursuant to the provisions of said afore-

afore-mentioned Act, and also out of any profits which may arise out of any works which may be erected out of any money so borrowed.

Given at the Commissioners' Board-room this day of 18 .

Signed, pursuant to Minute of the Commissioners, bearing date the day of 184

Entered,

Clerk to the Commissioners. Chairman.

INDORSEMENT.

PAYMENTS MADE.

DATE.	PRINCIPAL.	INTEREST.

Lighting of Towns.

(Ireland.)

A

B I L L

To alter and amend an Act of the Ninth Year of King GEORGE the Fourth, to make Provision for the Lighting, Cleansing and Watching of Cities, Towns Corporate and Market Towns in Ireland.

(*Prepared and brought in by*
Mr. Litton, Mr. Pigot and Viscount Bernard.)

Ordered, by The House of Commons, *to be Printed,*
29 *July* 1842.

[*Price* 6*d.*]

502.

Under 8 *oz.*

A

B I L L

For the Improvement of Health in Towns, by removing the Interment of the Dead from their Precincts.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS the practice of Interment under Churches, Chapels and other places of Religious Worship, and within the precincts of large Towns in England, is injurious to Health, and frequently offensive to public decency, and it is expedient that the same should be prevented; Preamble.

May it therefore please Your MAJESTY,

That it may be Enacted, **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *First day of October One thousand eight hundred and Forty-* , no burial or interment of any dead body shall take place in England, in or under any Church, Chapel or other place of Religious Worship, nor in or under any house or building inhabited by any person whosoever; and the executor or administrator to the estate and effects of every such deceased person, and every person who shall aid or assist in the burial of the same, contrary to this provision, shall forfeit the sum of *Five Pounds*: Provided always, That nothing herein contained shall, with the consent of One of Her Majesty's Principal Secretaries of State, prevent the interment of the dead body of any eminent public person in any vault or grave under Westminster Abbey or Saint Paul's Cathedral.

1. After 1 October 184 , no Interment to take place in any Church, &c.

17

2. After 31 December 184 , no Burial to take place in or within certain Cities, &c.

And be it Enacted, That from and after the *Thirty-first day of December One thousand eight hundred and Forty-* , no burial or interment of any dead body (except as herein specially provided to the contrary) shall take place in or within the distance of *Two* Miles from the precincts or boundaries of the cities of London or Westminster, or the borough of Southwark, or within *One Mile* of any other city, town or borough in England, which shall contain more than Houses, the occupiers whereof shall be rated to the relief of the poor to the amount of *Ten Pounds* or upwards, or within the distance of *One Mile* from the boundary of any place which shall contain within an area or square space of *Fifty* Acres more than *Five hundred* Houses, the occupiers whereof shall be so rated to the amount of *Ten Pounds* or upwards; and the executor or administrator to the estate and effects of every such dead body, and every person who shall aid or assist in the burial of the same contrary to this provision, shall forfeit the sum of *Five Pounds*: Provided always, That nothing herein contained shall extend to restrain the burial of any dead body in any Cemetery established under the authority of any Act passed specially for that purpose, within *Ten* Years prior to the passing of this Act, although the same may be within the aforesaid limit.

3. For defining Boundaries of certain Cities, &c.

AND for defining the precincts or boundary of any such city, town, borough or place, where the same shall not be ascertained and known by metes and bounds; BE it Enacted, That the precincts or boundary of every such city, town, borough or place, for the purposes of this Act, shall be deemed and taken to be co-extensive with the public lamps and paving of such city, town, borough or place.

4. After 1 January 1848, existing Burial-grounds may be planted with Shrubs, &c.

And be it Enacted, That on and after the *First day of January One thousand eight hundred and Forty-eight*, it shall be lawful for the Churchwardens of any parish, township or place, the Burial-ground of which, within their precincts, shall not have been used for the interment of any dead body for the space of *Five* Years, either to cause such Burial-ground to be planted with shrubs or trees, or to be appropriated to such public use or benefit as a Vestry of such parish, township or place shall fix on or determine; nevertheless no excavation or disturbance of the soil below the depth of *One Foot* from the surface of the earth shall take place under any pretence whatever, until *Twenty* Years after the expiration of the last interment of a dead body in the same.

5. After 1 October 184 , the Burial of the Dead to take place within a specified period.

And be it Enacted, That from and after the *First day of October One thousand eight hundred and Forty-* , if any dead body shall continue unburied between the *First day of May* and the *Thirty-first day of October*, both days inclusive, more than Hours, or between

between the *First day of November* and the *Thirtieth day of April*, both days inclusive, more than Hours, the executors or administrators to the estate and effects of such deceased person, or the friends or relatives of the same, or any one of such friends or relatives present at the burial, or the occupier of the house from which such dead body shall be removed to be buried, shall forfeit the sum of *Twenty Shillings* for every *Twenty-four* Hours after the expiration of such respective periods.

6. For appointment of Committees of Health.

And be it Enacted, That the Rector, Vicar or Incumbent, and the Churchwardens of every parish, township or place in every such city, town, borough or place respectively, shall form a Parochial Committee of Health for every such parish, township or place; or it shall be lawful for the Rectors, Vicars or Incumbents and Churchwardens of any Two or more parishes, townships or places therein, to form such parishes, townships or places into a Union for the purposes of this Act; and in such cases the Rectors, Vicars or Incumbents and Churchwardens of each parish, township or place so united shall form a Parochial Committee of Health for such Union; and all the powers hereinafter given to any such Committee may be executed by the majority of the members of any such Committee at any meeting.

7. Committees may purchase Land for Cemeteries.

And be it Enacted, That every such Committee may provide a convenient site of land for the burial of the dead of the district for which such Committee shall be formed, which land shall not be in or within the distance of *Two* Miles from the precincts or boundaries of the cities of London or Westminster, or the borough of Southwark, or in or within *One Mile* of any other city, town, borough or place, and no land shall be purchased for such purpose which shall be within *Three hundred* Yards of any house of the annual value of *Fifty Pounds*, or having a plantation or ornamental garden or pleasure-ground occupied therewith (except with the consent in writing of the owner, lessee and occupier of such house).

8. Corporations and others empowered to sell Land.

And be it Enacted, That it shall be lawful for all bodies corporate, and for tenants for life or in tail, and for the husband, guardian, trustee, committee or duly authorized attorney of every proprietor or person interested in any lands required for the purposes of this Act, as shall by reason of any legal disability or of absence beyond the seas be respectively incapable of acting for themselves, to agree with such Committee for the sale thereof, and to convey the same to the Rectors, Vicars or Incumbents (as the case may be) and Churchwardens respectively for the time being of the parish, township or place, or respective parishes, townships or places in respect of which the same shall be purchased for the purposes of this Act; and all such contracts, sales and conveyances shall be valid and effectual in law to all intents and purposes.

9. Application of Compensation when exceeding £. 200.

And be it Enacted, That if any money shall be agreed to be paid for any lands purchased or used by virtue of the powers of this Act which shall belong to any corporation, feme covert, infant, lunatic or person under any other disability or incapacity, such money shall, in case the same shall amount to the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England, in the name and with the privity of the Accountant-General of the High Court of Chancery, to be placed to his account ex parte "The Rector, Vicar or Incumbent and Churchwardens of " (as the case may be), to the intent that such money shall be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, in the purchase of the land-tax, or discharge of any debt or such other incumbrances or any part thereof as the said Court shall authorize to be paid affecting the same lands, or affecting other lands standing settled therewith, to the same or the like uses, intents and purposes; or where such money shall not be so employed, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of other lands, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the lands which shall be so purchased or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the Court of Chancery, upon application thereto, be invested by the said Accountant-General, in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities; and in the meantime and until the said Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said Court to the person who would for the time being have been entitled to the rents and profits of the lands so hereby directed to be purchased in case such purchase or settlement were made.

10. Application when Compensation is less than £. 200, but not less than £. 20.

Provided always, and be it Enacted, That if any money so agreed or awarded to be paid for any lands purchased or used for the purposes aforesaid, and belonging to any corporation or to any person under disability or incapacity as aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the lands so purchased or used, or of his guardian or committee in

case

case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of England, in the name and with the privity of the said Accountant-General of the High Court of Chancery, and placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid, at the like option, to Two Trustees, to be nominated by the person making such option, and approved of by the said Rector, Vicar or Incumbent (as the case may be) and Churchwardens (such nomination and approbation to be signified in writing under the hands or seals of the nominating and approving parties), in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

11. Application where Money less than £. 20.

Provided also, and be it Enacted, That where such money so agreed to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such cases, the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands so purchased or used for the purposes of this Act, or in case of infancy or lunacy, then to his guardian or committee, to and for the use and benefit of such person so entitled respectively.

12. Upon question touching title to Money, Person in possession of Premises deemed entitled.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money to be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, in pursuance of this Act, for the purchase of any lands, or of any estate, right or interest in any lands to be purchased in pursuance of this Act, or to any Bank Annuities to be purchased with any such money, or the dividends or interest of any Bank Annuities, the person who shall have been in possession of such lands at the time of such purchase, and all persons claiming under such person, shall be deemed and taken to have been lawfully entitled to such lands according to such possession until the contrary shall be shown to the satisfaction of the said Court of Chancery, and the dividends or interest of the said Bank Annuities to be purchased with such money, and also the capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands, or to some estate or interest therein.

13. Committee may form a Cemetery.

And be it Enacted, That it shall be lawful for the Committee to make and maintain a Cemetery or Burial-ground on any such land so purchased, and to lay out and plant the same in such manner as they shall think proper.

14. To be inclosed.

And be it Enacted, That the Cemetery shall be inclosed with walls, or other sufficient fences, of the height of *Ten* Feet.

15. Consecration.

And be it Enacted, That it shall be lawful for the Bishop of the Diocese for the time being to consecrate any part of the Cemetery, and the part so consecrated shall be used only for the burial of the dead according to the rites of the Established Church.

16. Title to be approved before Consecration.

Provided always, and be it Enacted, That it shall not be lawful for the said Bishop to consecrate any land, unless a good title to the same shall be shown to his satisfaction.

17. Consecrated Ground to be separated from the unconsecrated.

And be it Enacted, That in order to prevent any doubt or difficulty hereafter as to boundaries, such distinctive mark or separation shall be made between the consecrated and unconsecrated portions of the Cemetery as may be required by the said Bishop.

18. Chapel in connexion with the Established Church.

And be it Enacted, That the aforesaid Parochial Committee of Health shall construct, within such part of the Cemetery as shall be consecrated, a Chapel for the reception of the dead immediately previous to interment, and for performing therein the Burial Service according to the rites of the Established Church.

19. Part of the Cemetery for Dissenters.

And be it Enacted, That the Committee shall set apart a portion of the Cemetery as a place of burial for the remains of persons not being members of the Established Church, in proportion to the extent of the population of each class of persons, not members of the Church of England.

20. Chapels for Dissenters.

And be it Enacted, That the Committee shall construct, within the unconsecrated part of the Cemetery, such Chapels as they may think necessary for the reception of the dead immediately previous to the interment, and for performing therein the Burial Service according to the rites of any Church or Congregation other than the Established Church, by any Minister of such other Church or Congregation duly authorized by law to officiate in such Church or Congregation, or recognized as such by the religious community or society to which he may belong.

21. Portion of Ground to be set apart for Poor, and arrangements may be made for their Burial.

And be it Enacted, That part of the consecrated ground and part of the unconsecrated ground of the Cemetery shall be set apart for the burial of the poor; and it shall be lawful for the Committee of Health to make such arrangements for the conveyance to the Cemetery, and for the burial of the remains of any such poor, and to defray any expense incidental thereto, out of the money to be received by virtue of this Act, as such Committee may think proper.

And

22. Table of Fees to be fixed.

And be it Enacted, That the Committee shall fix and settle a Table of Fees to be paid on interments, and also the purchase-money to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any part of any Cemetery; and also the right of constructing any vault or place of burial, with the exclusive right of burial therein, in perpetuity or for a limited period; and also the right of erecting and placing any monument or gravestone in the Cemetery; which Table shall be printed and published, and shall be affixed, and at all times continued, on some conspicuous part of the Cemetery.

23. Sale of Vaults, rights of Burial, &c.

And be it Enacted, That the Committee, under such restrictions and conditions as they shall think proper, may sell the exclusive right of burial, either in perpetuity or for a limited period, in any part of the Cemetery; and also the right of constructing any vault or place of burial, with the exclusive right of burial therein, in perpetuity or for a limited period; and also the right of erecting and placing any monument or gravestone in the Cemetery.

24. Form of Grant.

And be it Enacted, That the grant of the exclusive right of burial in any part of the Cemetery, and of the right of constructing any vault or place of burial, with the exclusive right of burial therein, and of the right of erecting any monument or gravestone, may be made in the form in the Schedule to this Act annexed, or to the like effect.

25. Burials in the consecrated portion to be registered by the Officiating Minister.

And be it Enacted, That all burials in the consecrated part of the Cemetery shall be registered in register books for that purpose by the Officiating Minister, according to the laws in force for keeping registers in England by the Rectors, Vicars or Curates of parishes in ecclesiastical districts, and such register books, or copies or extracts therefrom, shall be received in all Courts as evidence of such burials, and copies or transcripts thereof shall be from time to time transmitted to the Registrar of the Ecclesiastical Court of the Bishop of the Diocese, to be kept with the copies of the other register books of the parishes within his diocese.

26. Registers to be subject to the Regulations of 6 & 7 W. 4, c. 86, as to Searches, &c.

Provided always, and be it Enacted, That the said register books, so far as respects searches to be made therein and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by an Act passed in the Session of the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled, "An Act for registering Births, Deaths and Marriages in England," so far as such regulations relate to register books of burials kept by any Rector, Vicar or Curate.

27. Rectors, &c. may elect to perform Bu-

And be it Enacted, That the Rector, Vicar or Incumbent of any parish, township or place, in respect of which any Cemetery

rial Service in Cemetery.

shall be formed under the provisions of this Act, may, on the formation of such Cemetery, if he thinks proper, undertake to perform the Burial Service on the burial of the remains of any person who shall die in the parish, township or place in which he shall be Rector, Vicar or Incumbent as aforesaid, and whose remains shall be buried in the consecrated part of such Cemetery, and every such Rector, Vicar or Incumbent shall thereupon be entitled to receive the same fees on the burial of such remains as he would have been entitled to receive if such remains had been buried in the Burial-ground existing in such parish, township or place on the passing of this Act.

28. Clerk and Sexton may elect to perform their Duties in Cemetery.

And be it Enacted, That every person who shall officiate or perform the office of Clerk or of Sexton of any parish, township or place at the time of the passing of this Act, and in respect of which any Cemetery shall be formed under the provisions of this Act, may, on the formation of such Cemetery, if they think proper, undertake to perform their respective duties of Clerk and of Sexton on the burial of the remains of any person who shall die in the parish, township or place in which such persons shall be respectively Clerk or Sexton as aforesaid, and whose remains shall be buried in the consecrated part of such Cemetery; and every such Clerk and Sexton shall respectively be entitled to receive the same fees on the burial of such remains for the performance of their respective duty as they would have been entitled to receive for performing such duty in the existing Burial-ground of such parish, township or place.

29. If Rectors, &c. decline to perform Service, Chaplain to be appointed with consent of the Bishop.

And be it Enacted, That if, on the formation of any Cemetery as aforesaid, any Rector, Vicar or Incumbent shall decline undertaking to perform in such Cemetery the Burial Service on the burial of the remains of persons who shall die in the parish, township or place in which he shall be Rector, Vicar or Incumbent, the Parochial Committee of Health or Union of Committees from time to time, with the consent of the Bishop of the Diocese, shall appoint a Clergyman of the Established Church to officiate in such cases as Chaplain in the consecrated part of the Cemetery, and such Chaplain shall be licensed by, and be subject to, the jurisdiction of the said Bishop, and the said Bishop shall have power to revoke any such license, and to remove such Chaplain for any cause which shall appear to the said Bishop to be reasonable; and the Rector, Vicar or Incumbent for the time being of every such parish, township or place shall thereupon be entitled to receive as compensation for the loss to him of fees, in consequence of the formation of such Cemetery, on any burial that shall take place in the consecrated part thereof, such amount of such fees as shall be fixed and determined by the Bishop of the diocese in which such Cemetery shall be situated.

Compensation to Rector, &c.

And

30. If Clerk or Sexton decline to perform Duties, others to be appointed.

And be it Enacted, That if on the formation of any Cemetery as aforesaid any Clerk or Sexton shall decline undertaking to perform in such Cemetery their respective duties of Clerk and Sexton on the burial of the remains of any person who shall die in the parish, township or place in respect of which such person shall be respectively Clerk or Sexton, and whose remains shall be buried in the consecrated part of such Cemetery, the Committee from time to time shall appoint respectively a Clerk and Sexton to perform such respective duty; and it shall be lawful for such Committee, if they shall think proper, to allow to any Clerk who shall decline undertaking to perform the duty of Clerk in such Cemetery such amount of compensation in respect of any burial that shall take place in the consecrated part of the said Cemetery as the said Committee shall think proper.

31. No Grave to be opened twice in Four Years.

And be it Enacted, That in no Cemetery to be formed under this Act shall any grave be opened a second time for the interment of the remains of any dead body therein within the space of Four Years, unless the exclusive right of burial shall have been granted to any person in such grave under the provisions herein contained, and such grave shall be opened in pursuance of such right.

32. For defraying Expenses of forming Cemetery.

AND for defraying the expenses of carrying the provisions of this Act into execution; BE it Enacted, That every such Committee may, if they think it necessary, cause One equal rate, not exceeding *One Penny* in the Pound, to be assessed and collected on the occupiers of all houses, buildings, lands, tenements and hereditaments within the parish, township, place or union in respect of which such Cemetery shall be formed, according to the rate or respective rates at which such occupiers shall be rated for the relief of the poor within the same; and all the powers and authorities in force relating to the assessing and collecting of poor's rates shall be and are hereby vested in such Committee with respect to the rate hereby authorized to be assessed and collected.

33. Forfeitures, Costs and Charges may be levied by Distress and Sale.

And be it Enacted, That all penalties and forfeitures by this Act inflicted or authorized to be imposed for any offence against the same, shall, upon proof and conviction of the offences respectively before any *Two* Justices, either by the confession of the party offending, or by the oath of any credible witness (which oath such Justices are in every case hereby fully authorized to administer), be levied, together with the costs attending the information, summons and conviction, by distress and sale of the goods and chattels of the offender or person liable to pay the same respectively, by warrant under the hands of the Justices before whom the party may have been convicted, or, on proof of such conviction, by a warrant under the hands of any *Two* Justices acting for the same county, riding or division (which warrant

such Justices are hereby empowered and required to grant), and the overplus (if any), after such penalties and forfeitures and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels; and in case such fines, penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such Justices as aforesaid to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall give sufficient security, to the satisfaction of such Justices as aforesaid, for his or their appearance before such Justices on such day as shall be appointed for the return of such warrant of distress, such day not being more than *Eight* Days from the time of taking any such security, and which security the said Justices as aforesaid are hereby empowered to take, by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such Justices as aforesaid, as the case may be, and they are hereby authorized and required, by warrant under their hands, to cause such offender to be committed to the common gaol or house of correction of the county, riding or place where the offender shall be or reside, there to remain without bail or mainprize for any term not exceeding *Three* calendar Months, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the penalties and forfeitures when so levied shall be paid to or for the use of such parish or union as the said Justices shall direct, to be applied in aid of the poor-rate of such parish or union.

34. Justices may proceed by Summons for the recovery of Penalties.

And be it Enacted, That in all cases in which any penalty or forfeiture is recoverable before the Justices of the Peace under this Act, it shall be lawful for any Justice to whom complaint in writing shall be made of any such offence to summon the party complained against to appear before any *Two* Justices, and on such summons the said *Two* Justices may hear and determine the matter of such complaint, and, on proof of the offence, convict the offender, and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same.

35. Satisfaction recoverable for special damage, but Distress not unlawful for want of form in the proceedings.

And be it Enacted, That where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any default or want of form in any proceedings relating thereto, nor shall the party distraining be deemed a trespasser ab initio on account of any irregularity which shall afterwards happen in making the distress, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action

on

on the case: Provided always, That no plaintiff shall recover in any action for any irregularity, trespass or wrongful proceedings if tender of sufficient amends shall be made by or on behalf of the party who shall have committed or caused to be committed any such irregularity, trespass or wrongful proceedings before such action shall have been brought; and in case no such tender shall have been made, it shall be lawful for the defendant in any such action, by leave of the Court where such action shall depend, at any time before issue joined, to pay into Court such sum of money as he shall see fit, whereupon such proceedings or orders and judgment shall be had, made and given in and by such Court as in other actions where the defendant is allowed to pay money into Court.

Plaintiff not to recover for irregularity if tender of amends be made.

36. Appeal to the Quarter Sessions against order of Justices.

Provided also, and be it Enacted, That if any person shall find himself aggrieved by any order or conviction of any Justices, where such person shall be convicted in any penalty exceeding *Five Pounds*, it shall be lawful for such person to appeal to any General or Quarter Sessions of the Peace to be held in and for the county, riding or division in which such order shall have been made or conviction taken place within *Four* calendar Months next after the cause of complaint shall have arisen, or if such Sessions shall be held before the expiration of *One calendar Month* next after such cause of complaint, then such appeal shall be made to the next following Sessions, either of which Court of Sessions is hereby empowered to hear and finally determine the matter of the said appeal, and to make such order therein as to them shall seem meet, which order shall be final and conclusive to and upon all parties; provided, that the person so appealing shall give or cause to be given at least *Fourteen* Days' notice in writing of his intention of appealing as aforesaid, and of the matter or cause thereof, to the Respondent, and within *Five* Days after such notice shall enter into a recognizance before some Justice of the Peace, with sufficient securities conditioned to try such appeal at the then next General Sessions or Quarter Sessions of the Peace, which shall first happen, and to abide the order of, and pay such costs as shall be awarded by, the Justices at such Quarter Sessions or any adjournment thereof; and such Justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

Fourteen Days' notice in writing to be given, &c., and Recognizance to be entered into.

37. Act not to extend to the Royal Family.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to the burial of the remains of any member of the Royal Family.

38. Interpretation Clause. And be it Enacted, That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say)

Singular and Plural. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Masculine Gender. Words importing the masculine gender shall include females :

Person. The word "person" shall include corporation, whether aggregate or sole :

Churchwarden. The word "Churchwarden" shall include Chapelwarden.

SCHEDULE

SCHEDULE

Referred to in the foregoing ACT.

FORM of Grant of Right of Burial, &c.

The Cemetery.

BY virtue of an Act passed, &c., intituled, &c., We, the in consideration of the sum of to us paid by A. B., of do hereby grant and convey unto the said A. B. the exclusive right of burial and interment [or, as the case may be, the rights and privileges of erecting and making, and the exclusive right of burial when made], in all [here describe the vault or place of burial, or the ground intended for the construction of a vault or place of burial, or for the erection of a monument or gravestone (as the case may be), so as to identify the same]; to hold the same to the said A. B. in perpetuity [or for the period agreed upon], for the purpose of burial [or, as the case may be].

Health of Towns.

A

B I L L

For the Improvement of Health in Towns, by removing the Interment of the Dead from their Precincts.

(*Prepared and brought in by Mr. Mackinnon, Mr. Cowper and Mr. Beckett.*)

Ordered, by The House of Commons, *to be Printed,* 5 *August* 1842.

538.

Under 2 *oz.*

A

B I L L

For the Improvement of Health in Towns, by removing the Interment of the Dead from their Precincts.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS the practice of Interment under Churches, Chapels and other places of Religious Worship, and within the precincts of large Towns in England, is injurious to Health, and frequently offensive to public decency, and it is expedient that the same should be prevented; Preamble.

May it therefore please Your MAJESTY,

That it may be Enacted, **And be it Enacted**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *Thirty-first day of December One thousand eight hundred and Forty-three*, no burial or interment of any dead body shall take place in England, in or under any Church, Chapel or other place of Religious Worship, nor in or under any house or building inhabited by any person whosoever (except as hereinafter specially provided to the contrary); and the executor or administrator to the estate and effects of every such deceased person, and every person who shall aid or assist in the burial of the same, contrary to this provision, shall forfeit the sum of *Five Pounds*.

1. After 31 December 1843, no Interment to take place in any Church, &c.

And be it Enacted, That from and after the *Thirty-first day of December One thousand eight hundred and Forty-four*, no burial or interment of any dead body (except as hereinafter specially provided to the contrary) shall take place in or within the distance of *Two* Miles from

2. After 31 December 1844, no Burial to take place in or within certain Cities, &c.

from the metes and bounds of the cities of London or Westminster, or the borough of Southwark, or the liberties thereof, or within *One Mile* of any other city, town or borough in England, as such metes and bounds are described or referred to in an Act passed in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," which shall contain more than *Five hundred* Houses, the occupiers whereof shall be rated to the relief of the poor to the amount of *Ten Pounds* or upwards; and the executor or administrator to the estate and effects of every such dead body, and every person who shall aid or assist in the burial of the same contrary to this provision, shall forfeit the sum of *Five Pounds.*

3. Act not to restrain Burial in certain Cemeteries or specified Churchyards, &c.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to restrain the burial of any dead body in any Cemetery authorized to be established by any Act passed specially for that purpose, or in any Churchyard, Cemetery or Burial-ground specified or referred to in the Schedule (A.) to this Act annexed.

4. Act not to extend to prevent Interments in Family Vaults or in certain Churchyards, &c., for Twenty Years.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to restrain the burial of any dead body in any existing family vault which shall be the property of, or which shall have been dedicated or set apart as the family vault of the family of which such dead body shall have been a member, nor to restrain for the period of *Twenty* Years from the passing of this Act the burial or interment of any dead body in or under the limits of any existing Churchyard, Cemetery or receptacle for the dead mentioned or specified in the Schedule (B.) to this Act annexed.

5. Act not to extend in certain cases to bury in Westminster Abbey or Saint Paul's Cathedral.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to prevent, with the consent of One of Her Majesty's Principal Secretaries of State, the interment of the dead body of any eminent public person in any vault or grave under Westminster Abbey or Saint Paul's Cathedral.

6. After 1 January 1850, existing Burial-grounds may be planted with Shrubs, &c.

And be it Enacted, That on and after the *First day of January One thousand eight hundred and Fifty*, it shall be lawful for the Churchwardens of any parish, township or place, the Burial-ground of which shall not have been used for the interment of any dead body for the space of *Five* Years (except in family vaults), to cause such Burial-ground to be planted with shrubs or trees, as a Vestry of such parish, township or place shall determine; nevertheless no excavation or disturbance of the soil below the depth of *Two Feet* from the surface of the earth shall take place under any pretence whatever, until *Twenty* Years after the expiration of the last interment of a dead body in the same.

And

7. For appointment of Committees to execute Act.

And be it Enacted, That the Rector, Vicar or Incumbent, and the Churchwardens of every parish, township or place in every such city, town or borough respectively, together with *Two* of the inhabitants of such parish, township or place, rated to the relief of the poor within the same to the amount of *Thirty Pounds* per annum, to be elected annually by the inhabitants of such parish, township or place in vestry assembled, shall form a Committee for every such parish, township or place; or it shall be lawful for the Rectors, Vicars or Incumbents and Churchwardens of any Two or more parishes, townships or places therein, to form such parishes, townships or places into a Union for the purposes of this Act; and in such cases the Rectors, Vicars or Incumbents and Churchwardens of each parish, township or place so united, together with *Two* of the rated inhabitants of each such parish, township or place, to be elected annually by the respective inhabitants of each such parish, township or place in vestry assembled, shall form a Committee for such Union; and all the powers hereinafter given to any such Committee may be executed by the majority of the members of the Committee at any meeting.

8. Committees may purchase Land for Cemeteries.

And be it Enacted, That the Committee are hereby authorized to provide a convenient site of land for the burial of the dead of the district for which the Committee shall be formed, not being land in or under which burials or interments of dead bodies are restrained from taking place under the provisions of this Act, and take a conveyance of the same to the Rector, Vicar or Incumbent and Churchwardens of the parish, township or place, or union of places for the time being, in respect of which the Cemetery shall be formed: Provided always, That no land, not already dedicated to the burial of the dead, shall be purchased for such purpose which shall be within *Three hundred* Yards of any house having a plantation or ornamental garden or pleasure-ground occupied therewith (except with the consent in writing of the owner, lessee and occupier of such house).

9. Corporations and others empowered to sell Land.

And be it Enacted, That it shall be lawful for all Cemetery Companies already formed, or which may hereafter be formed, and also for all bodies corporate, and for tenants for life or in tail, and for the husband, guardian, trustee, committee or duly authorized attorney of every proprietor or person interested in any lands required for the purposes of this Act, as shall by reason of any legal disability or of absence beyond the seas be respectively incapable of acting for themselves, to agree with the Committee for the sale thereof, and to convey the same to the Rectors, Vicars or Incumbents (as the case may be) and Churchwardens respectively for the time being of the parish, township or place, or respective parishes, townships or places in respect of which the same shall be purchased for the purposes of this Act; and all such contracts, sales and conveyances shall be valid and effectual in law to all intents and purposes.

10. Application of Compensation when exceeding £.200.

And be it Enacted, That if any money shall be agreed to be paid for any lands purchased or used by virtue of the powers of this Act which shall belong to any corporation, feme covert, infant, lunatic or person under any other disability or incapacity, such money shall, in case the same shall amount to the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England, in the name and with the privity of the Accountant-General of the High Court of Chancery, to be placed to his account ex parte "The Rector, Vicar or Incumbent (as the case may be), and Churchwardens of " to the intent that such money shall be applied under the direction and with the approbation of the said Court, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, in the purchase of the land-tax, or discharge of any debt or such other incumbrances or any part thereof as the said Court shall authorize to be paid affecting the same lands, or affecting other lands standing settled therewith, to the same or the like uses, intents and purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of other lands, which shall be conveyed and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the lands which shall be so purchased or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said money shall, by order of the Court of Chancery, upon application thereto, be invested by the said Accountant-General, in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities; and in the meantime and until the said Bank Annuities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said Consolidated or Reduced Bank Annuities shall from time to time be paid by order of the said Court to the person who would for the time being have been entitled to the rents and profits of the lands so hereby directed to be purchased in case such purchase or settlement were made.

11. Application when Compensation is less than £. 200, but not less than £. 20.

Provided always, and be it Enacted, That if any money so agreed or awarded to be paid for any lands purchased or used for the purposes aforesaid, and belonging to any corporation or to any person under disability or incapacity as aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the lands so purchased or used, or of his guardian or committee in

case

case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the Bank of England, in the name and with the privity of the said Accountant-General of the High Court of Chancery, and placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid, at the like option, to Two Trustees, to be nominated by the person making such option, and approved of by the said Rector, Vicar or Incumbent (as the case may be) and Churchwardens (such nomination and approbation to be signified in writing under the hands or seals of the nominating and approving parties), in order that such principal money and the dividends arising thereon may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Chancery.

12. Application where Money less than £.20.

Provided also, and be it Enacted, That where such money so agreed to be paid as next before mentioned shall be less than Twenty Pounds, then and in all such cases, the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands so purchased or used for the purposes of this Act, or in case of infancy or lunacy, then to his guardian or committee, to and for the use and benefit of such person so entitled respectively.

13. Upon question touching title to Money, Person in possession of Premises deemed entitled.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money to be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, in pursuance of this Act, for the purchase of any lands, or of any estate, right or interest in any lands to be purchased in pursuance of this Act, or to any Bank Annuities to be purchased with any such money, or the dividends or interest of any Bank Annuities, the person who shall have been in possession of such lands at the time of such purchase, and all persons claiming under such person, shall be deemed and taken to have been lawfully entitled to such lands according to such possession until the contrary shall be shown to the satisfaction of the said Court of Chancery, and the dividends or interest of the said Bank Annuities to be purchased with such money, and also the capital of such Bank Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands, or to some estate or interest therein.

14. Committee may form a Cemetery.

And be it Enacted, That it shall be lawful for the Committee to convert any such land so purchased (unless the same shall form part of some existing Cemetery, which shall render the same unnecessary) into a Cemetery or Burial-ground, and to lay out and plant the same

in such manner as they shall think proper, and cause the same to be inclosed with walls or other sufficient fences.

15. Consecration. And be it Enacted, That it shall be lawful for the Bishop of the Diocese for the time being to consecrate part of every Cemetery formed under the provisions of this Act, and the part so consecrated shall be used only for the burial of the dead according to the rites of the Established Church: Provided always, That the portion of the Cemetery which shall be consecrated shall be the same proportion, as nearly as the same can be conveniently ascertained, as the number of the members of the Established Church residing within the parish, township, place or union of places, in respect of which the Cemetery shall be formed, shall bear to the number of the remaining persons residing within the same.

16. Title to be approved before Consecration. Provided always, and be it Enacted, That it shall not be lawful for the said Bishop to consecrate any land, unless a good title to the same shall be shown to his satisfaction.

17. Consecrated Ground to be separated from the unconsecrated. And be it Enacted, That in order to prevent any doubt or difficulty hereafter as to boundaries, such distinctive land-mark or separation shall be made between the consecrated and unconsecrated portions of the Cemetery as may be required by the said Bishop; and a plan of the same, with such distinctive mark or separation traced thereon, shall be for ever kept in the vestry of every parish, in respect of which the Cemetery shall be formed.

18. Chapel in connexion with the Established Church. And be it Enacted, That the Committee shall construct, within such part of the Cemetery as shall be consecrated, a Chapel for the reception of the dead immediately previous to interment, and for performing therein the Burial Service according to the rites of the Established Church.

19. Part of the Cemetery for Dissenters. And be it Enacted, That the Committee shall set apart the remainder of the Cemetery as a place of burial for the remains of persons not being members of the Established Church.

20. Chapels for Dissenters. And be it Enacted, That the Committee shall construct, within the unconsecrated part of the Cemetery, a Chapel for the reception of the dead immediately previous to the interment, and for performing therein the Burial Service according to the rites of any Church or Congregation other than the Established Church, by any Minister of such other Church or Congregation duly authorized by law to officiate in such Church or Congregation, or recognized as such by the religious community or society to which he may belong.

AND

21. If Land bought of existing Cemetery Companies, a part to be consecrated, and part not.

AND whereas it may happen that, under the provisions herein contained, land may be purchased for the burial of the dead which may form part of some existing Cemetery, a portion of which may be consecrated, and a portion not consecrated; BE it therefore Enacted, That in any such case a portion of the land so to be purchased, bearing the same proportion, as nearly as the same can be conveniently ascertained, as the number of the members of the Established Church residing within the parish, township, place or union of places, in respect of which the Cemetery shall be formed, shall bear to the number of the remaining persons residing within the same, shall be consecrated land, and the land so purchased shall, for the purposes of this Act, be deemed and taken to be the Cemetery for the parish, township or place or union of places for which it shall be formed.

22. If Land bought of existing Cemetery Companies, power to contract for use of Chapels.

And be it Enacted, That in case under the provisions herein contained, land shall be purchased which shall form part of any existing Cemetery, having erected thereon two Chapels, one for performing therein Burial Service according to the rites of the Established Church, and another for performing therein Burial Service not according to such rites, it shall be lawful for the Committee, instead of erecting Chapels on such land, according to the provisions herein contained, to contract and agree with the owners of such Cemetery for the perpetual use of such two respective Chapels, when and so often as the same shall be required.

23. For defraying Expenses of forming Cemetery.

AND for defraying the expenses of carrying the provisions of this Act into execution; BE it Enacted, That the Committee may cause One equal rate, not exceeding *Sixpence* in the Pound, to be assessed and collected on the occupiers of all houses, buildings, lands, tenements and hereditaments within the parish, township, place or union of places in respect of which such Cemetery shall be formed, according to the rate or respective rates at which such occupiers shall be rated for the relief of the poor within the same; and all the powers and authorities in force relating to the assessing and collecting of poor's rates shall be and are hereby vested in the Committee with respect to the rate hereby authorized to be assessed and collected.

24. General Table of Fees to be fixed.

AND for the purpose of raising a Fund for the maintenance and support of the Cemetery, and the Chapels and Buildings connected with the same; BE it Enacted, That the Committee shall fix and settle a Table of Fees to be paid on interments, and the sum to be paid for the exclusive right of burial, either in perpetuity or for a limited period, in any part of the Cemetery; and also the right of constructing any vault or place of burial, with the exclusive right of burial therein, in perpetuity or for a limited period; and also the right of erecting and placing any monument or gravestone in the Cemetery; which Table

Table shall be printed and published, and shall be affixed, and at all times continued, in some conspicuous part of the Cemetery; and the money collected and received in respect of the several purposes before-mentioned shall be applied and disposed of by the Committee for the purpose for which the same is collected and received.

25. Form of Grant.

And be it Enacted, That the grant of the exclusive right of burial in any part of the Cemetery, and of the right of constructing any vault or place of burial, with the exclusive right of burial therein, and of the right of erecting any monument or gravestone, may be made in the form in the Schedule (C.) to this Act annexed, or to the like effect.

26. Statement of Account to be made out annually and laid before Vestry.

And be it Enacted, That a statement of the money received by the Committee, and how the same has been applied and disposed of, shall be annually made out and balanced up to the Thirty-first day of December in each year; and such statement shall, at the next or second Vestry Meeting of each parish, township or place in respect of which such Cemetery shall be formed, be laid before such Vestry.

27. Table of Fees may be altered every Ten Years.

And be it Enacted, That at the expiration of *Ten* Years from the formation of any Cemetery, and at the like expiration of every succeeding *Ten* Years, it shall be lawful for the Committee, if they shall think proper, to alter the said Table of Fees, and either increase or decrease the several sums mentioned and specified in the same, as they shall find the same necessary.

28. Fees for Interments in consecrated ground.

And be it Enacted, That in addition to the fees and sums of money payable for interments, and for other the rights hereinbefore specified in any Cemetery, in respect of the interment of any dead body in the consecrated part of such Cemetery, dying in any parish or district for which such Cemetery shall be formed, there shall be paid in respect of such interment the like fees and payments to the persons who would have been respectively entitled to the same as if such dead body had been buried in any burial-ground of the parish in which such person shall have died, existing at the time of the passing of this Act; and on the interment of any dead body dying out of the parish or district for which such Cemetery shall be formed, such fees and payments shall be paid to the persons who would have been respectively entitled to the same if such dead body had been buried in the burial-ground of the parish existing at the time of the passing of this Act, in which such Cemetery shall be formed.

29. Power to Rectors, &c. to fix Table of Fees for Burials in consecrated part of Cemetery.

And be it Enacted, That it shall be lawful for the Rector, Vicar or Incumbent and Churchwardens of any parish, township or place for which a Cemetery shall be formed, if they shall think proper, to fix and settle a Table of Fees to be paid to the Rector, Vicar or Incumbent,

bent, and to the Clerk or Sexton of such parish, township or place, in respect of the interments which shall take place in the consecrated part of the Cemetery; and after such Table of Fees shall be so fixed and settled and approved of by the Bishop of the Diocese, the same shall be deemed and taken to be the legal and accustomed fees to be taken by such respective persons.

30. No Grave to be opened twice in Six Years.

And be it Enacted, That in no Cemetery to be formed under this Act shall any grave be opened a second time for the interment of the remains of any dead body therein within the space of *Six* Years, unless the exclusive right of burial shall have been granted to any person in such grave under the provisions herein contained, and such grave shall be opened in pursuance of such right.

31. Forfeitures, Costs and Charges may be levied by Distress and Sale.

And be it Enacted, That all penalties and forfeitures by this Act inflicted or authorized to be imposed for any offence against the same, shall, upon proof and conviction of the offences respectively before any Two Justices, either by the confession of the party offending, or by the oath of any credible witness (which oath such Justices are in every case hereby fully authorized to administer), be levied, together with the costs attending the information, summons and conviction, by distress and sale of the goods and chattels of the offender or person liable to pay the same respectively, by warrant under the hands of the Justices before whom the party may have been convicted, or, on proof of such conviction, by a warrant under the hands of any Two Justices acting for the same county, riding or division (which warrant such Justices are hereby empowered and required to grant), and the overplus (if any), after such penalties and forfeitures and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels; and in case such fines, penalties and forfeitures shall not be forthwith paid upon conviction, then it shall be lawful for such Justices as aforesaid to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless the offender shall give sufficient security, to the satisfaction of such Justices as aforesaid, for his or their appearance before such Justices on such day as shall be appointed for the return of such warrant of distress, such day not being more than *Eight* Days from the time of taking any such security, and which security the said Justices as aforesaid are hereby empowered to take, by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for any such Justices as aforesaid, as the case may be, and they are hereby authorized and required, by warrant under their hands, to cause such offender to be committed to the common gaol or house of correction of the county, riding or place where the offender shall

be or reside, there to remain without bail or mainprize for any term not exceeding *Three* calendar Months, unless such penalties and forfeitures, and all reasonable charges attending the same, shall be sooner paid and satisfied; and the penalties and forfeitures when so levied shall be paid to or for the use of such parish or union as the said Justices shall direct, to be applied in aid of the poor-rate of such parish or union.

32. Justices may proceed by Summons for the recovery of Penalties.

And be it Enacted, That in all cases in which any penalty or forfeiture is recoverable before Justices of the Peace under this Act, it shall be lawful for any Justice to whom complaint in writing shall be made of any such offence to summon the party complained against to appear before any Two Justices, and on such summons the said Two Justices may hear and determine the matter of such complaint, and, on proof of the offence, convict the offender, and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same.

33. Appeal to the Quarter Sessions against order of Justices.

And be it Enacted, That if any person shall find himself aggrieved by any order or conviction of any Justices, where such person shall be convicted in any penalty exceeding *Two Pounds*, it shall be lawful for such person to appeal to any General or Quarter Sessions of the Peace to be held in and for the county, riding or division in which such order shall have been made or conviction taken place within *Four* calendar Months next after the cause of complaint shall have arisen, or if such Sessions shall be held before the expiration of *One calendar Month* next after such cause of complaint, then such appeal shall be made to the next following Sessions, either of which Court of Sessions is hereby empowered to hear and finally determine the matter of the said appeal, and to make such order therein as to them shall seem meet, which order shall be final and conclusive to and upon all parties; provided, that the person so appealing shall give or cause to be given at least *Fourteen* Days' notice in writing of his intention of appealing as aforesaid, and of the matter or cause thereof, to the Respondent, and within *Five* Days after such notice shall enter into a recognizance before some Justice of the Peace, with sufficient securities conditioned to try such appeal at the then next General Sessions or Quarter Sessions of the Peace, which shall first happen, and to abide the order of, and pay such costs as shall be awarded by, the Justices at such General or Quarter Sessions or any adjournment thereof; and such Justices, upon hearing and finally determining such matter of appeal, shall and may, according to their discretion, award such costs to the party appealing or appealed against as they shall think proper, and their determination in or concerning the premises shall be conclusive and binding on all parties to all intents and purposes whatsoever.

Fourteen Days' notice in writing to be given, &c., and Recognizance to be entered into.

Provided

34. Act not to extend to the Royal Family.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to the burial of the remains of any member of the Royal Family.

35. Interpretation Clause.

And be it Enacted, That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say)

Singular and Plural.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Masculine Gender.

Words importing the masculine gender shall include females :

Person.

The word " person" shall include corporation, whether aggregate or sole :

Churchwarden.

The word " Churchwarden" shall include Chapelwarden :

Committee.

The word " Committee" shall mean any Committee formed under the provisions of this Act, and applicable to the parish, township or place, or a union of parishes, townships or places in respect of which it shall be formed.

THE SCHEDULES

Referred to in the foregoing ACT.

SCHEDULE (A.)

NAME OF CHURCH-YARD, CEMETERY OR BURIAL-GROUND.	PARISH.	COUNTY.

SCHEDULE (B.)

NAME OF CEMETERY, CHURCH-YARD OR BURIAL-GROUND.	PARISH.	COUNTY.

SCHEDULE

SCHEDULE (C.)

FORM of GRANT of Right of Burial, &c.

THE CEMETERY.

BY virtue of an Act passed, &c., intituled, &c., We, the in consideration of the sum of to us paid by A. B., of do hereby grant and convey unto the said A. B. the exclusive right of burial and interment [or, as the case may be, the rights and privileges of erecting and making, and the exclusive right of burial when made], in all [here describe the vault or place of burial, or the ground intended for the construction of a vault or place of burial, or for the erection of a monument or gravestone (as the case may be), so as to identify the same]; to hold the same to the said A. B. in perpetuity [or, for the period agreed upon], for the purpose of burial [or, as the case may be].

Health of Towns.

A

B I L L

For the Improvement of Health in Towns, by removing the Interment of the Dead from their Precincts.

(*Prepared and brought in by Mr. Mackinnon, Mr. Beckett, Mr. Cowper, and Mr. Hume.*)

Ordered, by The House of Commons, *to be Printed,* 6 *March* 1843.

70.

Under 2 oz.

A

B I L L

To facilitate the Drainage of Lands in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient that provisions should be made for promoting the Drainage of Lands in England and Wales; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall and may be lawful to and for the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, by warrant under the hands of any Three or more of them, if they shall so think fit, to appoint Three or more persons to be Commissioners for the execution of this Act, during pleasure, and to remove any of said Commissioners, and to appoint another or others in the stead of the person or persons so removed, or dying, or resigning, and that all matters and things which the Commissioners for the execution of this Act are by any of the provisions of this Act required or authorized to do or execute may be done and executed by any Two of them.

1. The Commissioners of Her Majesty's Treasury to appoint Commissioners under this Act.

And be it Enacted, That it shall be lawful for any person interested in any Land liable to be flooded or injured by water, or capable of being drained, or the drainage whereof may be capable of being improved, to apply by Memorial to the Commissioners for the execution of this Act, stating the nature and extent of such Land, and praying that the same may be drained, or that the drainage thereof may be improved under the provisions of this Act.

2. How Persons interested in Lands liable to be flooded may proceed.

3. Where a Memorial is presented, the Commissioners may require a deposit for defraying preliminary expenses.

And be it Enacted, That in every case of application by Memorial as aforesaid, the said Commissioners shall require such a sum to be deposited in their hands, by or on behalf of the person so applying, as shall be sufficient for defraying the expense of making the preliminary inquiries, inspection and report hereinafter mentioned, and shall also, whenever afterwards they shall have notified their approval of the matter of such Memorial, require to be deposited in their hands, by or on the part of such person, such sum as shall be sufficient for defraying the expenses of making the further surveys, schedules, maps, plans, drawings, sections and estimate hereinafter directed to be made respecting the Land proposed to be drained, and the works necessary for draining the same, and for defraying the expenses of all other measures hereinafter directed to be taken for the purposes hereinafter expressed, previous to the actual commencement of any works under the provisions of this Act.

4. Commissioners may appoint a Person to inspect any Land, and to report thereon.

And be it Enacted, That whenever any such Memorial as aforesaid shall be presented to the said Commissioners, and the sum required to be deposited with them for the purpose of making such inquiry, inspection and report as aforesaid shall have been deposited accordingly, the said Commissioners shall direct some engineer or other competent person to inspect, and, if the said Commissioners shall deem fit, to make a survey of the Land referred to in such Memorial, or of any other Land of which they shall deem it necessary for the purposes of such Memorial that a survey should be made, or to examine any survey already made thereof, which the said Commissioners shall think sufficient, and to inquire into and ascertain the present state of such Land, and the capacity of the said Land for improvement by drainage, and the probable increase in the value of such Land when so improved, and further to ascertain whether any existing navigation would be materially injured by the works necessary to be executed for drainage, and whether it may be necessary or expedient for the execution of such works to purchase, remove, injure or alter any weir, dam, mill, factory, or other building or property, and whether any and what improvement would or might be effected in any existing water-power, and whether any new water-power would or might be created in conjunction with such works, and whether, for the prevention of sudden floods, and the preservation of surplus water for the supply of towns, mills, factories or navigation, or for the irrigation of or the warping or depositing soil by means of water on any lands where same shall be a beneficial manurance, any and what reservoirs should be constructed; and such engineer or other person shall report to the said Commissioners the nature, extent and probable expense of effecting the purposes aforesaid, and the lands, mills, factories, weirs and other property to be affected by such works, and the benefit or injury likely to arise to such lands, mills, factories, weirs and other property respectively from such works, and the several matters aforesaid.

And

5. Commissioners, &c. may enter Lands for the purposes of survey or inquiry.

And be it Enacted, That for the purposes of any inspection, survey or inquiry directed or necessary under any of the provisions of this Act, it shall be lawful for the said Commissioners, by themselves, their Sub-Commissioners, surveyors, engineers, agents, officers and workmen, to enter upon any Lands or premises in any district within which it is proposed that any works shall be executed under this Act, or any Lands and premises adjoining thereto, and, if necessary, to dig or bore therein, and also to examine any weir, sluice or flood-gate erected in or upon any river or stream which it shall seem to them to be necessary to examine, and to open or raise any such flood-gate or sluice for the purposes of any such inquiry, and to make any soundings or bore the bed or channel of any part of such river, or any mill-course connected therewith, making reasonable compensation for any damage done thereby; and the amount of such compensation shall be ascertained by Two or more Justices of the Peace at Petty Sessions in or for the district wherein any such damage shall be committed, and they are hereby authorized and required to inquire into and determine the same, and for that purpose to examine, on oath or otherwise, all such witnesses as shall be produced before them, and to make such order as to them shall seem just for the payment of the amount of such damage by the Commissioners to the party aggrieved, which said order shall be final and conclusive: Provided always, That the said Commissioners, their Sub-Commissioners, surveyors, engineers, agents, officers and workmen may enter upon such Lands as aforesaid, and do all necessary matters and things by this Act authorized previously to or pending the decision of such Justices.

6. If Commissioners think it inexpedient to execute the Works, they are to decide accordingly.

And be it Enacted, That if, on the report of such engineer or other person, the said Commissioners shall consider that the benefits likely to arise would not be commensurate with the probable cost of the necessary works, or if, from any other consideration, the said Commissioners shall deem it inexpedient that the Land referred to in any such Memorial as aforesaid should be drained under the provisions of this Act, they shall decide accordingly, and shall transmit to the person who shall have presented such Memorial relating thereto a notification in writing of their determination, together with a copy of such report.

7. If the Commissioners approve of the Works proposed, they shall cause copies of the Report to be deposited for public inspection.

And be it Enacted, That if, on the report of such engineer or other person, the said Commissioners shall consider it expedient that any works should be undertaken, they shall notify in writing to the person who shall have applied by Memorial as aforesaid their approval of the matter of such Memorial, and shall cause copies of the report to be made, and shall deliver a copy thereof to any person who shall apply for the same, on payment of the reasonable expense of preparing such copy; and shall also cause copies of such report to be deposited with the Clerk of the Peace of every county in which the Land proposed to

be drained shall be situate, and also in such and so many convenient places in the district where the said works are proposed to be executed, or in the vicinity thereof, as the said Commissioners shall think necessary, there to remain open for public inspection at all reasonable times for *Six* successive Weeks; and they shall cause notice of the places where such copies are deposited to be given by public advertisement in some newspaper circulating in such county or counties, or otherwise, as to them shall seem expedient.

8. Commissioners may cause Surveys, &c. to be made.

And be it Enacted, That if in the last-mentioned case the said Commissioners shall deem it expedient, they shall, upon receiving such deposit as aforesaid of a sum sufficient for the purpose, cause further surveys to be made of the Land proposed to be drained or improved, and proper schedules, maps, plans and sections to be prepared, describing the district within which it is proposed to put the powers of this Act into execution, and showing the Land to be drained or improved by such drainage, and showing, in One or more of such schedules, the reputed proprietors, lessees and occupiers thereof, and the lands or other property required to be taken for or likely to be injured by the proposed works, and the reputed proprietors, lessees and occupiers thereof, and showing, so far as may be possible, the line, course and situation of the streams, watercourses, drains, rivers and lakes intended to be cleared, scoured or embanked, and the requisite variations, divisions, abridgments or enlargements of the same, and the direction and extent of any new drains, watercourses or works necessary to be made, and the Land in and through which the same are to be made; and they shall also cause to be made an estimate of the expense of the proposed works, including in such estimate the probable amount of money payable as compensation in respect of any injury likely to be occasioned by such works, or for the purchase of any land, houses, fisheries, weirs, mills or other property required to be taken or purchased for the purpose of such works, and other miscellaneous expenses likely to be incurred; and they shall also cause the then actual value of the Land to be drained or improved by drainage by the proposed works to be ascertained, in such manner and by such means as they shall think proper, and the probable increase in such value by the proposed works; and such actual value and estimated increase shall be stated in the said schedules, and also the proportions in which such lands shall contribute towards the payment of the costs of the proposed works, specifying such proportions in the ratio of the estimated increase in the value of such lands; and the said Commissioners shall cause to be made copies of the said schedules, maps, plans, sections and estimate, and shall cause such copies to be deposited in such convenient place or places as the said Commissioners shall think proper, within or in the immediate vicinity of the district in which such Land shall be situate, there to remain open for public inspection at all reasonable

reasonable times for *Six* successive Weeks, which period may be reckoned concurrently with the period hereinbefore limited for the publication of the report before mentioned; and all persons shall be at liberty to inspect and make copies of or extracts from the said schedules, maps, plans, sections and estimate, and copies thereof or extracts therefrom shall be made for any person who shall require the same, on payment of the costs of making such copies or extracts.

9. Publication of a Notice that Maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of the said schedules, maps, plans, sections and estimate have been deposited as aforesaid, to be published in some newspaper usually circulated in the district in which the Land proposed to be drained shall be situated, or in the immediate vicinity thereof; and in all cases where it shall be proposed to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction connected with any mill or factory, a copy of such notice shall be served on the owner, lessee or occupier, or person in charge of such mill or factory, or posted on the door or wall thereof; and by such notice all parties interested shall be required, on or before a day to be therein named, not sooner than Six Weeks from such publication and posting or service as aforesaid of such notice, to transmit to the Secretary of the said Commissioners their objections (if any) to the said schedules, maps, plans, sections and estimate, and all other objections which such parties shall think fit to make with respect to any thing proposed to be done by the said Commissioners under the provisions of this Act.

10. Meeting of the Persons interested to be called by public Notice.

And be it Enacted, That the said Commissioners shall, either by the notice to be published as aforesaid, or by a subsequent notice to be published in like manner, call One or more public meetings of all persons interested in the Land proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of *Six* Weeks, and at such convenient place or places within the district wherein such Land so to be improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice: Provided always, That if the said Commissioners shall call such One or more meetings by a subsequent notice as before provided, they shall fix for such meeting a day, not sooner than *Twenty-one* Days from the date of such subsequent notice.

11. Proceedings at Meeting.

And be it Enacted, That at the time and place named in such notice as aforesaid, One or more Sub-Commissioners shall attend on the part of the said Commissioners, and shall have power to adjourn from time to time, or hold such new meeting as he may find necessary,

and shall inquire into the correctness of the schedules containing the names of such proprietors and occupiers as aforesaid, and shall hear all such objections as shall have been or shall then be made by any person or persons interested in said Lands, or any persons on his or their behalf, as to any omission or misdescription in such schedules, or any name improperly inserted therein, and shall hear all such other pertinent objections as shall have been or shall be then and there made by such person or persons to the schedules, maps, plans, sections, and estimate which shall have been made under the provisions hereinbefore contained; and the said Sub-Commissioner shall also hear and inquire, on oath or otherwise, into all such objections by any of the persons aforesaid to the said proposed works as shall have been or shall then and there be made, and also all objections to the stated value of the Land, or to the stated probable increase in such value as the same shall have been respectively set forth in the said schedules, and also into all such objections as shall have been made, or shall then and there be made, by or on behalf of the owner, lessee or occupier, or other person interested in any mill or factory likely to be affected by any thing proposed to be done by the Commissioners under any of the provisions of this Act; and after having considered all such objections as aforesaid, he shall cause such alterations (if any) as he may deem expedient to be made in the said schedules, maps, plans, sections and estimate, and shall sign the same; and the said Sub-Commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid, and shall give to the persons present at such meeting full information respecting the nature and extent of the proposed works, and shall take or receive the assents in writing of the proprietors of the Lands comprised in such schedules to the execution of the proposed works; and such schedules, maps, plans, sections and estimates shall be laid before the said Commissioners for their approval and signature; and when they shall have been signed by the said Commissioners, they, and the assents which shall be given, shall be preserved by the said Commissioners in their office in London, and a copy thereof shall be deposited with the Clerk of the Peace of each county wherein such works are proposed to be executed, and shall be open to public inspection at all reasonable times on payment of a fee of *One Shilling*.

12. Power to Sub-Commissioner to adjourn Meetings.

And be it Enacted, That it shall be lawful for the Sub-Commissioner from time to time to adjourn any of the meetings to be held by him under this Act, to such time and place as he may think proper.

13. No drainage Works to be commenced, unless Three-fourths of Proprietors assent.

And be it Enacted, That no works shall be commenced for the drainage of any Land under or by virtue of this Act, unless the proprietors of Three-fourths or more in extent of the Land proposed to be drained or improved by such drainage shall assent to the execution thereof

thereof in writing under their hands respectively, within such time as the said Commissioners shall appoint.

14. Who shall be deemed Proprietors.

And be it Enacted, That any person seised of or entitled to any portion of the Land proposed to be drained or improved by drainage, in possession as tenant in fee-simple or in fee-tail, general or special, or as tenant by curtesy, and also any person who shall be entitled under any will or settlement, or any other deed or instrument (except a grant or lease reserving rent, or an agreement in writing for such grant or lease), for his own life or the life of any other person, or for years determinable on such life or lives, and also every feoffee or trustee of any such Land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, shall be deemed a proprietor of such Land for the purposes of this Act; and in every case in which any person seised, possessed of or entitled to any such Land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall, subject to the provisions hereinafter contained, be deemed a proprietor of such Land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him, which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any Land so proposed to be drained, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed the proprietor for the purposes of this Act as shall be in actual occupation of the said Land, or as shall have such estate or interest as aforesaid therein next in reversion or remainder to the estate or interest of the person in actual occupation.

15. Persons entitled to certain interests, upon giving security, to be deemed Proprietors.

And be it Enacted, That at any time before such meeting as last aforesaid, or at any period within such time as may be appointed by the Commissioners for the receiving of assents, and which time they are hereby authorized to limit and appoint, any person seised or possessed of any portion of the Land proposed to be drained or improved, for any life or lives, or for any term of years determinable on any life or lives, or for any term of years absolute, whereof there shall be then Seven Years or more unexpired, who shall deposit with the said Commissioners such sum of money as to them shall seem sufficient for the payment of the sum with which such portion of Land may become

chargeable, for or in respect of the costs and expenses of the works proposed to be executed, shall be deemed the proprietor of such Land, and the person entitled to assent for the purposes of this Act: Provided always, That in case several such persons shall desire to become assenting proprietors, and to make such deposit as shall be so required, preference shall be given to such of the said persons as shall be in actual occupation of the Lands; and in case the person so in occupation shall not so desire or shall not make such deposit, then the person who shall have the next estate or interest in such Lands greater than that of such occupier or occupiers thereof, and shall so desire and make such deposit, shall be preferred, and so on, that person (if there be more than One signifying such desire and so making such deposit) being always preferred who shall have, among such persons as last aforesaid, such estate or interest as aforesaid nearest in order to and greater than that of the occupier of such Lands: Provided also, That in case any such person shall become such assenting proprietor, the assent of no other person shall be taken into account in respect of such Lands.

16. Trustees, &c. may apply to Court of Chancery for leave to assent.

Provided always, and be it Enacted, That it shall and may be lawful for any feoffee, or trustee for charitable or other purposes, and also for any guardian, husband or committee of any infant, feme covert, or idiot or lunatic respectively (on behalf of their respective infants, idiots, wives or lunatics), to apply, if they shall think fit, in a summary way by Petition to Her Majesty's Court of Chancery in England, for leave to assent to the execution of any works proposed to be done under the provisions of this Act; and the said Court shall have power to inquire into the propriety of giving such assent, and to make such order on the Petition, and as to the costs thereof, as to the Court shall seem meet; and if the Court shall authorize any such assent being given, then it shall be lawful for the person who shall have presented the Petition to give such assent, and the same shall be as binding and effectual, to all intents and purposes whatsoever, as if the person giving the same had been the actual proprietor of the Lands in respect of which such assent shall be given.

17. Joint Tenants to be accounted as one Person.

And be it Enacted, That joint tenants, tenants in common, and coparceners jointly interested in any portion of Land proposed to be drained or improved, shall, in respect of the Land in which they are so interested, be accounted as one person: Provided always, That the concurrence of the person or persons interested in or possessing *Two-thirds* of the estate or interest in such portion of Land shall be sufficient for the purpose of giving such assent as aforesaid.

18. As to concurrence of Lessee holding for a life or lives, &c.

Provided always, and be it Enacted, That where any portion of Land proposed to be drained or improved by drainage shall, at the time

time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease, or agreement in writing for a lease, for a life or lives, or for a term of years whereof more than *Fourteen* Years shall be unexpired, the consent in writing of such person shall be necessary in order to give validity to the assent of the proprietor, in respect of the Lands comprised in such grant, lease or agreement, any thing hereinbefore contained to the contrary notwithstanding.

19. Assents may be given by Persons authorized.

And be it Enacted, That the assents and consents of proprietors or other persons required to be given in writing for any of the purposes of this Act may be given by the known agent or attorney of any such proprietor or person duly authorized for all or any of such purposes.

20. Where the weir, dam, &c. of a Mill or Factory causes occasional flooding, the Commissioners shall have power to construct Works for the discharge of the surplus water, &c.

And be it Enacted, That in cases where from the damming up of any river or stream by the weir, dam or other work or obstruction of any mill or factory, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Commissioners to construct any reservoir, embankment, tunnel or back drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in the dams, weirs, works, obstructions or water-courses connected with such mills or factories, which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharge of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any such mill or factory shall not be thereby lessened; and the level of the water at which such amount of working water-power shall be secured shall be previously inquired into and ascertained by the said Commissioners; and all persons interested in such mill or factory, or in any Land to be drained as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinbefore directed to be held, or at any meeting to be called by the said Commissioners for such purpose; and the said Commissioners shall hear and decide upon all such objections, and declare what such level shall be, and shall state the same in the declaration hereinafter directed to be made by the said Commissioners; and the said Commissioners, in case they shall so interfere with any such mill or factory, shall also cause a stone sill or gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory, on which shall be marked, in clear and legible figures or letters, the due and proper level of water ascertained and declared as aforesaid.

21. Where the weir, dam, &c. of a Mill or Factory

And be it Enacted, That if any weir, dam or other work or obstruction, connected with any mill or factory, shall cause the flooding of any

by flooding causes injury, &c., all necessary alterations may be made thereir, if the water-power be not lessened thereby.

Lands included in any district in which this Act shall be brought into operation, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such Lands, or prevent their improvement, and if such flooding cannot, in the opinion of said Commissioners, be otherwise remedied or prevented, it shall be lawful for the said Commissioners, so far as shall be necessary for remedying or preventing such flooding and injury, or such impediment to the improvement of such Lands as aforesaid, to alter any such dam, weir, work or obstruction, or the position or level thereof, and to raise or lower or alter any water-wheel, or any machinery immediately attached thereto, and the levels of the head and fall of any water to such mill or factory: Provided always, That in all cases where any such raising, lowering or alterations as aforesaid shall be effected, the amount of working water-power of such mill or factory or water-wheel shall not be in anywise lessened thereby; and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising, lowering, modification and alteration respectively, or necessary or proper and sufficient for the due, convenient and permanent working of such mill or factory, with such full amount of working water-power, shall be made, provided, erected, fitted and placed by such Commissioners in a workmanlike manner, and with proper and durable materials; and that such Commissioners, and the Trustees to be appointed as hereinafter mentioned, shall (save as hereinafter provided) from time to time and at all times uphold, maintain and keep in repair all such additional sluices, cuts, dams, gates and other works as shall be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing, and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which shall be provided or imposed in relation to any Lands in such district, under the provisions of this Act: Provided also, That nothing in this Act contained shall be deemed or construed to create or confer any right to any water in respect to any mill or factory, to which the owner or occupier would not have been entitled if this Act had not been passed.

22. Where the weir, dam, &c. of any Mill or Factory causes injury, &c., the same may be taken by the Commissioners at a valuation.

And be it Enacted, That if any weir, dam or other work or obstruction belonging to or connected with any mill or factory shall cause the flooding or prevent the draining of any Lands included in any such district as aforesaid, so as thereby to injure such Lands or prevent their improvement, to an extent in value equivalent to or exceeding *Three* times the then present value of such mill or factory, it shall be lawful for the said Commissioners, in case they shall not agree for the purchase of such mill or factory, weir, dam and other work, to take

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the same, and to award compensation for the value thereof, together with *Twenty Pounds* for every Hundred Pounds in addition thereto, and also for the loss or injury arising to the tenant or owner thereof, in like manner and subject to the like appeal as by this Act provided in reference to any Land to be taken by the said Commissioners for the purpose of any works to be executed under this Act.

23. Before Mill or Factory interfered with, Declaration shall contain necessary statements.

Provided always, and be it Enacted, That before the said Commissioners shall proceed to take any such mill or factory, and the works connected therewith as aforesaid, or to effect any such constructions, erections, lowering, raising or alteration as aforesaid, the said Commissioners shall insert in the declaration which they are hereinafter required to make, such statement with respect to the several matters aforesaid as hereinafter directed to be made in cases where any mill or factory is proposed to be interfered with.

24. Commissioners shall make Declaration, stating the names of assenting Proprietors, &c.

And be it Enacted, That at or after the meeting hereinbefore directed to be convened by the said Commissioners, and if then, or within such period as shall have been limited and appointed by them as hereinbefore provided, the proprietors of Three-fourths or more in extent of the Land proposed to be drained or improved by drainage shall have assented in writing to the execution of the proposed works, the said Commissioners shall make and sign a declaration, describing the Land proposed to be drained or improved, and declaring the then actual value thereof, and the estimated increase in such value by means of the proposed works, and the proportions with which such Land shall be chargeable towards the costs of the proposed works, such proportions being fixed according to such actual value and such estimated increase as aforesaid, and also stating therein the names, additions and residences of the proprietors who shall have assented to the execution of the proposed works, and the Land belonging to them respectively, and in respect of which they shall have so assented; and in all cases wherein any mill or factory, or any weir, dam or other work or obstruction belonging to or connected with any mill or factory, shall cause flooding, so as thereby to injure or prevent the improvement of such Land as aforesaid, it shall be stated in such declaration that such mill or factory, or such weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether such injury or prevention of improvement be to an extent in value or exceeding *Three* times the value of such mill or factory; and in case such injury or prevention of improvement be to an extent in value less than Three times the value of such mill or factory, it shall be stated in such declaration whether, in the opinion of the Commissioners, the flooding of said Lands cannot be remedied without altering such dam, weir, work or obstruction, or the position

or level thereof, and also the amount of the actual working water-power of such mill or factory, also the level of the water at which the amount of working water-power theretofore enjoyed by such mill or factory can be secured; and such declaration shall be printed, and copies thereof deposited with the Clerk of the Peace of each county in which the Land, or any part thereof proposed to be drained or improved by drainage is situate, and also in such convenient places as the said Commissioners shall think fit; and in all cases where it is proposed to interfere with any mill or factory, or any works or appurtenance thereof as aforesaid, the said Commissioners shall deliver or cause to be delivered to the owner or occupier of any such mill or factory, or to his clerk, agent or servant superintending the same, a copy or duplicate of such declaration as aforesaid, together with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill or factory, and all persons may inspect and take extracts of or copies from such declaration; and all persons requiring copies of or extracts from such declaration to be made by such Clerk of the Peace, shall be entitled to the same on payment of the costs thereof, not exceeding *Three-halfpence* for every Seventy-two words.

Declaration to be printed, published and deposited for public inspection, &c.

25. And be it Enacted, That the said Commissioners shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published in some newspaper usually circulated in the district in which the Land proposed to be drained shall be situate, or in the immediate vicinity thereof.

Notice to be given of the Places where copies of the Declaration shall be deposited.

26. And be it Enacted, That if any person shall be aggrieved by the declaration which shall be so made by the said Commissioners, or by any thing contained therein or omitted therefrom, or by any other act, deed, matter or thing whatsoever done or omitted to be done by the said Commissioners under or by virtue of the provisions hereinbefore contained, or any of them, it shall be lawful for such person to appeal against or in respect of such declaration, or any such act, deed, matter or thing, to the first quarter sessions of the peace or adjournment thereof, to be holden in and for the division of the county wherein any part of the Land proposed to be drained shall be situate, which shall be holden next after the publication of such declaration, or next after the cause of complaint shall have arisen in respect of which such appeal shall be made; and the person so appealing shall give *Fourteen* Days' notice at least in writing of such appeal to the said Commissioners, and within *Four* Days after the date of such notice enter into recognizance before some Justice of the Peace for such county, in the sum of *Twenty Pounds*, with Two sufficient sureties, each in a sum of *Ten Pounds*, conditioned to try such appeal, and

General appeal to Quarter Sessions.

and to abide by or to submit to such order as shall be made thereon, and to pay such costs as shall be awarded by the court at such quarter sessions, or any adjournment thereof; provided that, for want of sufficient time for giving such notice previous to the next quarter sessions or adjournment thereof, then such appeal, under the like recognizance and with the like notice, may be made at the quarter sessions or adjournment thereof, to be holden in and for such division next after the expiration of *Fourteen* Days from the publication of such notice, or the cause of complaint arising.

27. Proceedings before the Quarter Sessions.

And be it Enacted, That the court at such first or second quarter sessions or any adjournment thereof, upon proof of such notice as aforesaid, and of the entering into such recognizance, shall hear and determine the matter of such appeal, and make such written order thereon as to them shall seem fit; and such court may order the costs of any such appeal to be paid, wholly or in part, by the said Commissioners or the party appealing, and if the same shall be ordered to be paid by the party appealing, such court may direct the same to be levied by a distress and sale of his goods and chattels: Provided always, That nothing herein contained shall be construed to authorize or empower any court of quarter sessions to make any order directing that the general execution of the proposed works shall not be proceeded with, unless it shall appear before them that the proprietors as aforesaid of *Two-thirds* in extent of such Lands have not assented as hereinbefore required, or to make any order affecting the peculiar mode of construction of any of the works which shall have been approved of by the said Commissioners, or to make any order affecting the costs of carrying the said proposed works into execution: Provided also, That in all cases of appeal respecting mills or factories only, if the said Commissioners or the appellant shall be dissatisfied with the decision of the court of quarter sessions, it shall be lawful for such Commissioners or appellant, within *One Month* after such decision, to apply, by Petition in a summary way, to the Court of Chancery, by way of appeal against such decision, and such Court may direct the notes of the evidence taken on such hearing to be furnished by the Clerk of the Peace, and shall make such order thereupon, whether for a re-hearing before such court of quarter sessions or otherwise, as shall appear just: Provided also, That the proceedings on such Petition shall not, in case the decision of such court of quarter sessions shall be in affirmance of such declaration, stay the prosecution of such works, but the Commissioners may proceed with the same, subject to such order of such court of equity respecting the prosecution, modification or stoppage of such works, or respecting such mill or factory, or for compensation to the party interested therein or otherwise, as the court may deem just; and such order shall be binding and conclusive on all persons whomsoever.

28. Commissioners to give a final Notice that all the requisites of the Act have been complied with.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the court of quarter sessions as aforesaid, shall have been concluded, the said Commissioners shall give a final notice that all the requisitions of this Act with respect to the Land or River proposed to be drained or improved have been duly complied with; and a copy of such notice, signed by the said Commissioners, shall be published in the London Gazette, and in some newspaper usually circulated in the district wherein such Land shall be situate, or in the vicinity thereof.

29. Publication of such Notice to be conclusive.

And be it Enacted, That the publication of any such last-mentioned notice shall be deemed final and conclusive evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the said Commissioners under any of the provisions hereinbefore contained, save only by such Petition to the Court of Chancery as aforesaid.

30. As to Expenses of preliminary proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be defrayed accordingly, and the sum of money (if any) deposited by or on behalf of the person by or on behalf of whom such Memorial as aforesaid shall have been presented shall be repaid to such person, without deduction, out of any monies which shall be raised by the said Commissioners under the provisions hereinafter contained; but if in any case the said Commissioners shall determine that it is inexpedient to drain the Land referred to in any such Memorial, or if the necessary assents hereinbefore required to be obtained shall not be given to the execution of the proposed works, then and in any such case all expenses which shall have been incurred shall be defrayed out of the sum of money which shall have been deposited with the said Commissioners under the provisions in that behalf hereinbefore contained; and if such sum of money shall be insufficient to pay such expenses, then the balance thereof shall be paid by the person who shall have presented such Memorial as aforesaid; and the same shall be recoverable from such person by the said Commissioners, by action or suit in any of the superior courts in London.

31. After publication of final Notice, Com-

And be it Enacted, That at any time after the publication of any such final notice as hereinbefore mentioned, the said Commissioners may,

may, in case it shall seem to them expedient, commence and proceed with the works proposed to be executed for the drainage of the Land to which such notice may relate.

missioners may commence the Works.

32. Commissioners to appoint Officers.

And be it Enacted, That it shall be lawful for the said Commissioners to appoint, employ and dismiss at pleasure such Sub-Commissioners, engineers, surveyors, clerks, collectors, receivers or other necessary officers, and pay and allow, out of the funds at their disposal under this Act, to such officers such yearly or other salary or wages as the said Commissioners shall think fit; and all and every the person or persons employed as aforesaid shall, when required so to do by the said Commissioners, render to them a true and perfect account of all monies which shall have been received and paid by them respectively by virtue of such employment, with proper vouchers for the same, and shall pay to the said Commissioners, or such person as they shall authorize to receive the same, all such sums as shall be due to the said Commissioners from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Commissioners; and in case any person who shall be so employed as aforesaid shall refuse or neglect to render such account and make such payment as aforesaid, or to deliver up such vouchers, books and writings to the said Commissioners, or to such person as they shall empower to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at petty sessions assembled, to inquire into the matter of such default in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any One or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the county, there to remain for any time not exceeding *Twelve* calendar Months, or until he shall have made a perfect account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Commissioners, which composition and agreement the said Commissioners are hereby empowered to make.

All Officers to account.

33. Reservoirs and Embankments to be made.

And be it Enacted, That it shall be lawful for the said Commissioners, at their discretion, and for the purposes of this Act, to make reservoirs or embankments, with valves and cloughs to draw the water from or out of such reservoirs, and also cuts, aqueducts, feeders, bye-washes, spill-waters, weirs, dams, banks, drains, sluices and other works for securing a supply of superabundant or flood-waters to said reservoirs or embankments, or for leading the waters therefrom, with over-falls for allowing the escape of water, and for the protection, security, cleansing, repair and maintenance of such reser-

voir and other works, and also to provide and keep in repair near each of the said reservoirs a house, with necessary accommodations for the residence of a person to superintend such reservoir and other works; and such person shall have full power and authority (subject nevertheless to the control of the said Commissioners) to superintend and regulate the outlet of water from such reservoir, and all matters and works connected therewith; and it shall also be lawful for the said Commissioners to make any road or way in lieu of any existing road or way which it may be necessary to divert or occupy for the purpose of making any such reservoirs, embankments or works, and to make and maintain all such other roads or ways in, through, over or upon any land near to or adjoining any of the said reservoirs, as they may find expedient, for enabling them, and their engineers, surveyors, agents, officers, workmen, servants and other persons in their employ, to have access to such reservoirs, embankments and works, or any of them, with or without cattle, carts or carriages.

34. Power to divert the surplus waters of Rivers, &c. adjoining the Reservoirs.

And be it Enacted, That it shall be lawful for the said Commissioners to make such feeders or channels, with such cut-waters, drains and other works as they shall deem proper, for collecting and conducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

35. Where Reservoirs or Embankments may be made for maintaining a constant supply of water to Mills or Factories, Commissioners may make same, &c.

And be it Enacted, That for the purpose of maintaining a constant supply of water for mills or factories on any river or stream, or preventing sudden floods therein, it shall be lawful for the said Commissioners, with the assent of the proprietors of such mills or factories, the value of the working water-power of which shall be equal to *Three-fourths* of the value of the working water-power of the mills or factories which shall be then existing on such river or stream, and affected by the maintaining of such constant supply of water, to make reservoirs or embankments, and to impose a tax or rate on the whole of the mills and factories along said river or stream which shall be benefited thereby, or on such new mills or mill sites as shall or may be formed thereon and benefited thereby, for the purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred, such benefit to be calculated by the said Commissioners upon each foot or fall of water which shall appertain to each such mill or factory; and the said Commissioners shall have such and the like power and authority to recover the amount of rate which shall be so fixed and determined by them as are by this Act given to them for the recovery

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of any other rate or charge imposed hereby; and it shall be lawful for the said Commissioners to borrow money for the purpose of making such reservoirs or embankments as last aforesaid, upon the security of the taxes or rates which they are hereby empowered to impose on such mills or factories as aforesaid: Provided always, That it shall not be lawful for the said Commissioners to make any such reservoir or embankment, or to take away, injure or prejudicially affect any Land or Lands for the purpose last aforesaid, without the consent for that purpose first had and obtained in writing of all persons having any estate or interest in such Lands greater than a term of Seven Years then unexpired: Provided also, That in each case, before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publication of such final notice as aforesaid, in cases where drainage or improvement by drainage is proposed to be effected, or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed, and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, published and posted in such manner as the final notice hereinbefore mentioned, which shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given shall and may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

36. In cases of Reservoirs, &c., who shall be deemed Proprietors of Mills or Factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, each person shall be deemed a proprietor of any such mill or factory as last aforesaid who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any Land proposed to be drained or improved by drainage under the provisions of this Act.

37. Weirs may be altered or removed, making Compensation to the Owners thereof.

And be it Enacted, That it shall be lawful for the said Commissioners from time to time, at their discretion, to alter or remove any fishing weir erected in or upon any stream of water, or any impediments whatsoever in or on any river, stream or watercourse which now or hereafter shall be within the district within which it may be proposed that the said works shall be executed (subject, as regards weirs or dams of mills or factories, to the provisions herein contained), making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs, rivers, streams or watercourse, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned, in case the said Commissioners shall

not be able to come to an agreement for same with such proprietors or persons.

38. Power to Commissioners, in case the Mill-power be improved with Owner's consent, to rate the Mill-owner towards the expenses of the Works.

And be it Enacted, That in case the proprietor of any mill or factory shall consent that any dam, weir or watercourse, or other work or obstruction connected with such mill or factory, shall, for the purpose of drainage to be effected under this Act, be altered and rebuilt, or that such mill or factory shall, by any works of the said Commissioners, obtain any increased water-power, it shall be lawful for the said Commissioners to fix and determine the amount of rate or contribution which shall be paid by the proprietor of such mill or factory for the improvement which shall be so effected, towards the repayment of the costs and expenses of the works to be executed within the district within which such mill or factory is situate, and the rate which shall be paid in future for such increased water-power from such reservoir; and the said Commissioners shall have such and the like powers and authorities to recover the amount of rate which shall be so fixed and determined as are given to them by this Act for the recovery of any other rates or charges imposed hereby.

39. Any improvement made in the dams to Mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That in all cases in which, in the progress of the execution of any work under the provisions of this Act, any mill or factory shall be stopped from working, and compensation shall be awarded for any injury resulting therefrom, it shall be lawful for the said Commissioners, or the Court of Quarter Sessions, in case of appeal under the provision hereinafter contained for the adjustment of claims for compensation, to set off against the same the value of any benefit resulting from any improvement which shall be effected by the execution of such works in the water-power of, or constancy of supply of water to, such mill or factory, or by the relief from back-water afforded to it.

40. Commissioners may appoint Persons to open Floodgates, &c.

And be it Enacted, That the Commissioners or Trustees hereinafter mentioned may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, stream or drain which shall be improved or made under the provisions of this Act, appoint a proper person for the regulation, opening and closing of any floodgates, sluices, stopgates, or stops of any weir, dam or other work connected with any mill or factory which may have been in any respect interfered with by the said Commissioners or Trustees, or of any weir, dam or other work which may be under the care or control of the said Commissioners or Trustees, or vested in or erected by them, or either of them, under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close the same for the purposes aforesaid, subject nevertheless to the control, orders and directions of the said Commissioners or Trustees,

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as the case may be; and all expenses of maintaining the same, and the sills and gauges hereinbefore directed to be erected, and of remunerating said person employed to regulate the same, shall, save as hereinafter provided, be defrayed by the said Commissioners or Trustees respectively out of the funds and rates which shall be levied under the provisions of this Act.

41. Owners or occupiers not to be exonerated from making Repairs.

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or mill site, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, stream or watercourse, or to maintain any dam or sluice or floodgate, or any engine, contrivance or other work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever, as he may or would have been respectively subject or liable to if this Act had not been made.

42. Remedy by summary application to the Court of Chancery in the event of Commissioners failing to secure the due amount of water-power to the Owner of Mill or Factory.

And be it Enacted, That any person interested in any mill or factory affected, or proposed to be affected, by any thing to be done under the provisions of this Act may apply, by Petition in a summary way, to the Court of Chancery, complaining that the due amount of water-power has not been properly secured to or for such mill or factory, or that any act has been done, or has been threatened or proposed to be done, by the said Commissioners, or by any person acting, or pretending to act, under the provisions of this Act, by which injury has been, or may be, sustained by such mill or factory, or by such person so interested in respect thereof, and which act may not be authorized by this Act; and thereupon such Court shall make such order and direct such proceedings before One of the Masters of such Court, or by directing any issue or issues to be tried before a Judge and Jury at the Assizes, or before the Court of Quarter Sessions, or otherwise, as such Court may order; and thereupon it shall be lawful for such Court to direct such works to be made by such Commissioners as to such Court of Chancery shall seem necessary or proper, and to make from time to time such further or other order, whether for compensation to any party interested in such mill or factory, or for restraining the Commissioners, or any other person, from doing any act, or otherwise, as to such Court shall seem just, and to issue any writ or writs of injunction for any of the purposes aforesaid for which the same may be required; and such Court shall have power to award costs to either party: Provided always, That such Petition shall be presented within *Six* Months after the subject-matter of such complaint shall have arisen.

43. Power to execute the Works.

And be it Enacted, That it shall be lawful for the said Commissioners to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, and to make and execute all such

works as shall be described in the maps, plans and sections hereinbefore mentioned, or such deviations therefrom, or such other works as they shall deem necessary for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any Land included in the said maps, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, drain, brook, pool or watercourse running through such Land, and to make, open and cut in or upon the same any new watercourse, side, cut, ditch or drain, and to alter or remove any bank, sluice, flood-gate, drain or tunnel, and to make or erect any wharf, landing-place, bank, sluice, floodgate or other building, drain, tunnel or other works necessary for drainage, and to dam, bar and stop up, with any weir or dam, any river, brook, pool, stream or watercourse, and also to make upon such Land any embankment against the sea, or any lake, river, stream or watercourse, and to put and place on such Land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such Land, or for the better conveying the waters from the said Land into the sea, or into any river, lake, stream or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river, lake, stream or watercourse, for the purpose of supplying water to any mill or factory, or to any site proper for the erection of a mill or factory thereon, or of keeping back a sufficiency of water for the use of cattle, or for the irrigation or warping of lands where such irrigation or warping shall be wanted, and shall be a beneficial manurance to such Lands; and also to stop up or divert any road or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, watercourse or side-cut now existing or to be made as aforesaid, and also to do all such things, and erect such steam and other engines, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

44. Commissioners may enter Lands and dig for materials, on making Compensation.

And be it Enacted, That it shall be lawful for the said Commissioners, or any Sub-Commissioner, engineer, workman or other person authorized by them, after Three Days' previous notice, to enter into and to search for, dig, take and carry away materials out of any Land lying within or contiguous to the Land proposed to be drained, for the purpose of executing or repairing any works under the provisions of this Act, making such compensation for the surface damage done to the proprietors, lessees or occupiers of such Lands, according to their respective interests therein, as to the said Commissioners shall seem fit and reasonable; and in case of dispute, such compensation shall be settled, on a summons to be issued for that purpose by any Two or more

more Justices of the Peace for the county in which such Land is situate, at petty sessions: Provided always, That in all cases where materials shall be taken from an open quarry bonâ fide demised to any person, with liberty to raise, sell and dispose of the materials therein, the value of such materials shall be paid for by the said Commissioners, and the amount owing, in the event of difference as to the same, shall be settled on summons by any Two or more Justices as aforesaid.

45. Commissioners to fill up Holes and Pits not found useful, and fence off those that may be useful.

And be it Enacted, That if, by reason of the searching for, digging or getting any materials as aforesaid, any pit or hole be made in any common or other Land wherein such materials shall be found, the said Commissioners shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be used, and shall, within *Six* Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the said Commissioners shall cause the same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

46. Power to Commissioners to make Drains through Land not proposed to be drained, Compensation being made for Damage done.

And be it Enacted, That if it shall be necessary for improving the outfall of any Land, or for the purpose of carrying off water from any Land to be drained, or from any drain to be made, scoured out or enlarged, under the authority of this Act, to scour out, widen or enlarge any river or drain, not included in such district as aforesaid, it shall be lawful for the said Commissioners to enter upon said Land, and to scour out, widen, straighten or enlarge such river or drain, due compensation being made by the said Commissioners for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained.

47. Commissioners authorized to enforce the cleansing of Drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse, river or rivulet lying below or between or in any Land authorized to be drained by virtue of this Act, or the outfall thereof, the said Commissioners may require such person to scour out and cleanse the same; and in case such person shall neglect, within *Fourteen* Days after notice in writing given to him, or to the tenant of the Land in respect of which such liability exists, or left at the usual abode of such person or tenant, to cleanse any such drain, sewer, watercourse, river or rivulet, to the full and proper width and depth, the said Commissioners may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of

such person or tenant, together with the charges attending such distress and sale.

48. Any party whose Lands may be injured by the neglect to maintain the Banks or scour the Channels of existing Drains, &c. may require the Proprietors so neglecting to join in an effectual cleansing and maintaining thereof.

AND whereas by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams or rivulets lying in or forming the boundaries of or leading to the outfall from such Lands, much injury is done thereto, and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where, by reason of the neglect of any such proprietor or occupier to maintain the banks or cleanse and scour the channels of existing drains, streams or rivulets lying in or bounding the lands of such proprietor or occupier, injury shall be caused, it shall be lawful for the proprietor or occupier of any Land injured thereby, to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing delivered to him, or left at his usual place of abode, to join in the effectual maintaining such banks, or in the cleansing and scouring of the channels of such drains, streams or rivulets; and in case he shall refuse effectually so to do, it shall be lawful for the proprietor or occupier of the Land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to proceed with the maintaining and repairing of such banks, or the cleansing and scouring of such channels as aforesaid, and to sue for and recover from such neglecting proprietor and occupier the entire or such just proportion of the expenses attendant thereon as he may be liable to, before the court of quarter sessions of the county wherein such drain, stream or rivulet, or the part thereof which shall be cleansed and scoured, shall be, and as may be fixed and determined by such court, who shall have power to fix and determine the same, and to award, in addition to the usual costs, such further costs, to be paid by such party and in such manner as to them shall seem reasonable: Provided always, That in all such cases when such drain, stream or rivulet shall not be a boundary between the adjoining lands of such proprietors or occupiers as aforesaid, it shall not be lawful for any such proprietor or occupier to proceed to maintain and repair the banks, or cleanse and scour the channel of such drains, stream or rivulet as last aforesaid, without a warrant or authority in writing so to do from Two or more Justices assembled in petty sessions for the county wherein such drain, stream or rivulet, or the greater part thereof, shall be situate, and which warrant or authority such Justices shall grant, if, upon inquiry had before them, upon a summons to be served upon the proprietors or occupiers of the Lands in which such drain, stream or rivulet shall be, and who shall have neglected to cleanse or scour the channels, or maintain the banks of same, it shall be proved that the neglect so to do causes such injury or prevents such improvement.

Mode of proceeding in case of refusal.

And

49. If Cuts be made which shall injure Roads or Bridges, the Commissioners to make other Roadways and Bridges.

And be it Enacted, That if by any cut, drain or other works made under the authority of this Act, any road or way shall be disturbed or interrupted, or any land intersected in such manner as to render the future occupation thereof inconvenient or unprofitable, the said Commissioners shall, if the same shall appear to them necessary, cause other convenient roads or ways to be made, and any bridges which may be required to be properly built, for the use of the persons entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges, out of the monies to be received by virtue of this Act: Provided always, That it shall be lawful for the said Commissioners, if they shall think fit, to contract and agree with the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties or any of them, and to pay the sum contracted and agreed to be paid out of the monies to be received by virtue of this Act: Provided always, That in case the said Commissioners shall be able to agree with the persons interested in such roads, ways or bridges for compensation in respect of the damage occasioned in relation to the same, it shall be lawful for them so to do.

50. Where the existing Bridges, Culverts or Archways are insufficient for the discharge of Water under a public Road, same may be reconstructed by the Commissioners.

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public road shall, in the opinion of the said Commissioners, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause or tend to cause the flooding of or other injury to any of the Land to be drained or improved by the proposed works, it shall be lawful for the said Commissioners to have the same reconstructed in such manner as to them shall appear sufficient, at the expense of the proprietors of such Land; and thenceforth such bridges, culverts, archways and roads shall be repaired and maintained by such parties as were theretofore liable to repair and maintain the same.

51. Commissioners to provide in Dams and Weirs for the migration of Salmon, Trout and Eels.

And be it Enacted, That in the construction, alteration or remodelling of any dams, weirs or other works in the bed of any river to be altered under this Act, it shall and may be lawful for the said Commissioners, whenever they shall deem the same necessary, so to construct, alter or remodel the same as to provide sufficient means in some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

52. Works not to injure any ornamental Water, nor the Supply of Water to Towns.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to interfere with ornamental water in any private pleasure-ground or park, without the previous consent in writing of the owner and occupier thereof, or of their respective guardian or committee in case of infancy or lunacy, nor to curtail or

cut off the supply of water to any town without previously making adequate provision in lieu thereof.

53. Nor to encroach upon Parks, &c.

And be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners to encroach, by their works or otherwise, upon any park, garden or pleasure-ground, without the consent in writing of the owner and occupier thereof.

54. When Lands cut through shall be less than an acre in quantity or less than Fifteen yards wide, Commissioners to purchase the whole, if required.

And be it Enacted, That if in the execution of any of the works authorized by this Act any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property, so that there shall be left on each or either side of the said works or any of them less than *One statute Acre* in quantity, or less than *Fifteen* Yards in breadth, then and in every such case the said Commissioners shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided) take and purchase such piece or parcel or pieces or parcels so to be left as aforesaid of such field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

55. Commissioners may purchase Land for the purposes of the Act.

And be it Enacted, That it shall be lawful for the said Commissioners to purchase any Lands which they shall think it necessary or proper to purchase for accomplishing any of the purposes of this Act, making such reasonable satisfaction and recompense to the person entitled to or interested in such Land as shall be settled and ascertained in manner hereinafter mentioned.

56. Notices to be given to Proprietors of Land required for or likely to be affected by the proposed Works, requiring them to furnish to Commissioners their claims.

And be it Enacted, That the said Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors or occupiers, or reputed proprietors or occupiers, and all persons interested, where the same may be known to the Commissioners, of and in all such Land as may be required to be taken for or be liable to be injuriously affected by the works proposed to be made under this Act, requiring such proprietors, occupiers or other persons to prefer their respective claims before such Commissioners for the value of such Land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which One or more Sub-Commissioners shall hold a meeting for inquiring into all such claims, and shall also, *Thirty* Days at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in *Three* successive publications of some newspaper circulating in the county or counties in which such Land as aforesaid shall be situated.

57. Corporations, Trustees, and other Persons

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feoffee in trust for charitable or other purposes

poses, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, feme covert, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant for life, or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any Land required to be purchased for any of the purposes of this Act, or injuriously affected by any such works as aforesaid, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue of such ward, wife or person respectively, and to and for any feme covert entitled in her own right to any such Land, or to dower or other interest therein, on behalf not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife, person or feme covert respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and feme covert, on behalf of the person or persons on behalf of whom such ward, wife, person or feme covert respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same Land, and to and for every other person whomsoever who is or shall be seised or possessed of or interested in any such Land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the said Commissioners, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange, as shall be determined by the said Commissioners, and also to execute any conveyance or enter into any contract with respect to the premises which the said Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable by the said Commissioners in respect thereof shall be paid by the said Commissioners out of the monies to be raised by virtue of this Act, as hereinafter mentioned.

empowered to sell and convey, &c.

58. And be it Enacted, That all conveyances which shall be executed to the said Commissioners of any Land which shall be required by them

Form of Conveyance.

for any of the purposes of this Act shall be in the following Form, or as near thereto as the number of parties and the nature of the case will admit; namely,

"I, of in in consideration of the sum of paid to [or, paid into the Bank of England, as the case may be,] by the Commissioners appointed under an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], do hereby grant and release to the said Commissioners all [describing the premises], together with all ways, rights and appurtenances thereunto belonging, and all estates, rights and interests in the same and every part thereof; to hold to the said Commissioners and their successors for ever, according to the true intent and meaning of said Act. In witness whereof I have hereunto set my hand and seal on this day of in the year of our Lord One thousand eight hundred and ."

59. Satisfaction to be made, and may be accepted.

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such Land as aforesaid, and any other owner of any such Land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant for a year, or from year to year, or at will, or other occupier of any Land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the said Commissioners; and in case the said Commissioners and the said party interested in such Land or sustaining such injury or damage cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

60. Commissioners empowered to assess the value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such Land as aforesaid shall neglect or refuse to treat, or shall not agree with the said Commissioners, or, by reason of absence or disability, cannot agree, or cannot be found or known, or shall not prove a clear title to the Land, or the estate or interest which he shall claim therein, to the satisfaction of the said Commissioners, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction

tion or recompense for the same as shall be offered by the said Commissioners for the space of Thirty Days, after notice in writing given to the principal officer or officers of such corporation, or to such trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such Land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, then and in every such case the said Commissioners are hereby empowered, at a time and place to be specified in such notice as last aforesaid, to inquire and examine, and assess and award the sum of money to be paid for the purchase of such Land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such Land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the Land named or described in such award, or any Land held in conjunction therewith; and the said Commissioners shall award such purchase-money or recompense so to be assessed; and the said Commissioners shall and may in such award name or describe the persons (if known to the said Commissioners) to whom respectively the sum mentioned therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than One, and the Land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the Land named and described in such award, or any Land held under the same lease or instrument in conjunction therewith; and the said Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly; and such award shall be conclusive and binding upon The Queen's most Excellent Majesty, and all other persons interested, except in the case and subject to the provisions hereinafter contained.

61. Any Person dissatisfied with the Adjudication of the Commissioners may appeal to the Court of Quarter Session.

Provided always, and be it Enacted, That if any person interested or claiming to be interested in any Land which may be made the subject of any such award as aforesaid shall be dissatisfied therewith, either as respects the necessity of the said purchase, or of the amount of the value, or the compensation awarded in respect thereof, or of any abatement to be made in any rent, or as respects the persons to whom or the proportions in which such value or compensation is to be paid or abatement made, it shall be lawful for such dissatisfied person to appeal to the quarter sessions which shall be held next after any such

award shall have been made and settled as aforesaid for the county wherein such Land shall be wholly or in chief part situate (provided the same shall not be held sooner than *Thirty-one* Days after the making of such award), the party appealing, if there be sufficient time after such award, having first given to the said Commissioners *Twenty-one* Days' notice at least of his intention of bringing such appeal, and of the matter thereof, and if there shall not be Thirty-one Days between the making of such award and the day appointed for holding such sessions, then such appeal may be made at the second quarter sessions which shall be holden for such county after such award; and the court at such first or second quarter sessions, or any adjournment thereof, upon due proof of such notice having been given, is hereby empowered and required to hear and finally determine the matter of such appeal, either by or without the verdict of a jury, as the party appealing shall require, and may order such sum to be paid for the costs thereof to be paid wholly or in part by either of the parties thereto, and may direct such costs so awarded to be levied by distress and sale of the goods and chattels of the party or parties who shall refuse or neglect to pay the same: Provided always, That if no notice of appeal shall be served on the said Commissioners within Fourteen Days next after their award shall be made, the same shall be final, binding and conclusive upon all persons, and to all intents and purposes whatsoever.

62. Judgments of Court to be binding on all Parties.

And be it Enacted, That in all such cases of appeal as last aforesaid, the said court shall give judgment for such purchase-monies or recompense, whether the same shall have been assessed and ascertained by such juries, or finally determined by such court; and the verdicts of such juries, and the judgments thereon, and the judgments of the said court where no such verdicts shall be given, shall be final, binding and conclusive, to all intents and purposes, against all parties, corporations and persons whomsoever.

63. Awards, verdicts and judgments to be recorded.

And be it Enacted, That such of the aforesaid awards of the said Commissioners as shall not be appealed from, and the judgments and verdicts so given as aforesaid, shall be respectively transmitted to and be kept by the respective Clerks of the Peace of the counties in which the Land in respect of which such awards, judgments or verdicts shall have been respectively made shall be situate, and shall be deposited with the records, and deemed records of such counties respectively, to all intents and purposes; and the same, or certified copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of *Sixpence*, or to have copies thereof, paying for every copy the sum of *Three Halfpence* for every Seventy-two words, and so in proportion for any greater or less number of words.

And

64. Application of Compensation-money when amounting to or exceeding 200 *l.*

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any Land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any Land which shall belong to any corporation, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any feme covert, infant, idiot or lunatic, or to a tenant for life, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same Land, otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there ex parte the Commissioners for executing this Act, setting forth the title hereof, and without fee or reward; and shall, when so paid in, there remain until the same shall, by order of the said Court, made upon a Petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said Land, be applied in or towards the discharge of any such debt or other incumbrance affecting the same Land, or any other Land or Property standing settled therewith to the same or the like uses, trusts, intents and purposes as the said Court of Chancery shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall, upon the like application, in a summary way, be laid out, by order of the said Court, in the purchase of other Land, which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes, and in the same manner as the Land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant-General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of England; and in the meantime, and until the said stocks, funds or annuities shall be sold by order of the said Court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such Land so to be purchased, conveyed and settled.

65. When less than 200 *l.* and amounting to or exceeding 20 *l.*

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any Land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the

sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of England in the name and with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid, at the like option and with the like approbation, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the Land so to be purchased, taken or used, or damaged or injured as aforesaid, such nomination to be approved of by the said Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of England, without being required to obtain any order of the Court of Chancery touching the application thereof.

66. When less than 20 *l.*

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid as hereinbefore mentioned shall be less than Twenty Pounds, then and in every such case the same shall be paid to the person who would for the time being have been entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

67. The Court may order reasonable expenses of Purchases to be paid by the Commissioners.

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any Land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable, under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England, to be applied in the purchase of other Land, to be settled to the like uses, in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said Commissioners out of the monies to be received by virtue of this Act; and the said Commissioners shall from time to time pay such sums of money for such purposes as the said Court shall direct.

And

68.

Premises to vest in the Commissioners, upon payment into Bank of the Money agreed upon or assessed, when Conveyances cannot be obtained.

And be it Enacted, That if any corporation or person seised or possessed of or having any estate or interest in any such Land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such Land to the satisfaction of the said Commissioners or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the said Commissioners to pay such sum of money as shall have been contracted and agreed, or shall have been adjudged in manner aforesaid to be paid for the purchase or for the value of such Land into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to be placed to his account to the credit of the party interested in the said Land (describing such Land), or if such party shall not be known, then to the credit of the then unknown person interested in the said Land (describing the same), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation, or person making claim to such sum of money or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise, as to the same Court shall seem fit, to order the same to be laid out and invested in the public funds, and to order distribution thereof, or payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of England who shall receive such sum of money, is hereby required to give a receipt for such sum of money; and upon payment of such sum of money into the Bank as lastly hereinbefore is mentioned, the Land for the purchase or for the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the absolute interest therein, together with the yearly profits thereof, and all the estate, right, title, interest, use, trust, property, claim and demand in law and equity, of the corporation or person or unknown person, to whose credit such money shall be paid, in, to and out of the Land, shall vest in the said Commissioners, and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such Land had actually conveyed the same; and such payments shall not only bar all right, title, interest, claim and demand of the corporation or person or unknown person, of, in or to the same Land, to whose credit such payment shall have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of such person, and all estates tail and other estates, in possession, reversion, remainder, expectancy or contingency, and the issue of such person and every other person whomsoever.

69. In case of questionable Title of Persons in Possession.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of England in the name and with the privity of the Accountant-General of the said Court of Chancery in pursuance of this Act, for the purchase of any Land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government or Real Securities, the person who shall have been in possession of such Land at the time of such purchase, and all persons claiming under such person or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such Land, until the contrary shall be shown to the satisfaction of the said Court; and the dividends or interest of the Bank Annuities, or Government or Real Securities to be purchased with such money, and also the capital of such Bank Annuities or Government or Real Securities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such Land or to some estate therein.

70. Estate of Mortgagees to vest in Commissioners on payment of principal and interest;

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any Land taken or purchased under this Act, then, on payment of the principal and interest due thereon, or in case a part only of any Land subject to such charge or mortgage be so taken or purchased, then a proportionate share of such principal and interest (to be ascertained, in case of dispute, in the manner hereinbefore provided for ascertaining the value of Land taken or purchased for the purposes of this Act) to such mortgagee or person entitled thereto, or into the Bank of England, for the use of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, in the Land or the portion of Land so taken or purchased shall vest in the Commissioners, and they shall be deemed to be in the actual possession thereof, free from the same mortgage or charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any Land purchased or taken under this Act, shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then, upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged on the Land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him in the said Land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Commissioners, and they shall be deemed to be in the actual possession

or if such principal and interest exceed the value of the Property, then on payment of the value.

possession of the said Lands, to all intents and purposes whatsoever, freed from such mortgage or charge as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same Land or portion of Land.

71. Lien shall remain on Premises not conveyed in proportions.

And be it Enacted, That when any rent, or any such charge, incumbrance or lien as aforesaid, shall also be payable out of, or extend over and be a charge, incumbrance or lien on any Lands, other than those which shall be taken or injured by or conveyed to or vested in the said Commissioners, then and in such case neither this Act nor any conveyance so made as aforesaid shall in any respect discharge, affect or alter the force, validity or effect of such charge, rent, incumbrance or lien, so far as relates to such other lands, tenements or hereditaments, but that as to all such the same shall respectively continue, be good, valid and subsisting, subject nevertheless to such reduction of rent (if any) as may be made in respect of such Lands under the provisions herein contained.

72. Power to enter and take possession of Land, &c. on payment or tender of Purchase-money.

And be it Enacted, That upon payment into the Bank of England as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or adjudged in manner aforesaid, for the purchase of any Land, or as a recompense for the yearly produce or profits thereof, or as a compensation for damages as herein mentioned, to the proprietor of such Land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the said Commissioners, or their agents, workmen or servants, immediately to enter upon and use such Land.

73. Commissioners may forego the taking of any Land on serving a notice, within Six Months from the time of contract or adjudication, that the same will not be required.

Provided always, and be it Enacted, That if it shall seem expedient to the said Commissioners, at any time or times within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act, not to take or injure the whole or any part of any Land or other matters or things named or described in such adjudication or contract, it shall be lawful for the said Commissioners to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contract to be interested in such Land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the said Commissioners), shall be utterly void and of none effect to all intents and purposes whatsoever;

soever; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall fix and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and if necessary, apportion the residue among the persons entitled thereto; and the said Commissioners shall amend such adjudication or contract accordingly; and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal as any other adjudication or contract under this Act: Provided always, That in all cases where the Commissioners shall serve notice that it is not intended to take or injure the whole nor any part of such Land, the person or persons interested in such Land, and incurring any loss or expense in consequence of the Commissioners having previously required the same, shall be entitled to compensation for such loss and expenses, and in case the amount thereof cannot be agreed upon, the same shall be ascertained and taxed by the court of quarter sessions of the county in which such Land or the chief part thereof shall be situate.

Proviso.

74. If the Commissioners make any new site for a Mill or Factory, the same shall vest in them for the purposes of this Act.

And be it Enacted, That whenever in executing any of the proposed works, the said Commissioners shall be enabled to make any new site for a mill or factory, such new site may be made by the said Commissioners, if they shall think fit; and the same, with the water-power thereof, shall be absolutely vested in the said Commissioners and their successors for ever, in trust, for the purposes of this Act, and in order that the same may be sold: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory.

75. Commissioners to sell Lands and Mills, making first offers to the Proprietors of the estate.

And be it Enacted, That the said Commissioners shall from time to time sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, watercourses and mill sites which shall become vested in them under any of the provisions aforesaid, and which shall not be required to be retained for any of the purposes of this Act; and the produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed in the district in which such Lands so sold or disposed of shall be situate: Provided always, That the said Commissioners, before they shall sell or dispose of any of the premises aforesaid, shall first offer the same to the person to whose estate the same originally belonged, and then to the person whose estate shall adjoin thereto, and such premises shall not be sold to any other person at such price as the persons so entitled to a preference shall be willing to give for them, or

at

at any lower price; and if each such person shall refuse to purchase the same, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in said Court, that such offer was made by or on behalf of said Commissioners, and that such offer was refused by the person to whom the same was made, such affidavit shall, in all Courts whatsoever, be sufficient evidence and proof that such offer was made and refused.

76. Application of Monies received by the Commissioners.

And be it Enacted, That all sums received by the said Commissioners under the provisions of this Act shall be paid into the Bank of England, to the credit of the said Commissioners, and shall be applied towards the expenses of the several works for drainage or water-power to be executed under this Act, or towards the repayment of any loan or loans which shall have been or may be made to the said Commissioners for the execution of the said works under the power in that behalf hereinafter contained, and of all other expenses payable by the said Commissioners under the provisions of this Act.

77. Commissioners may borrow Money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the said Commissioners, from time to time as occasion shall require, to borrow and take up at interest, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them in the execution of any works for the drainage or improvement of any Land, or the formation of any reservoir under or by virtue of this Act; and the repayment of such sum or sums of money, with interest, at a rate not exceeding *Five Pounds* per centum per annum, shall be secured to the party lending the same upon the monies accruing to the said Commissioners under or by virtue of the award to be made by the said Commissioners, as hereinafter mentioned.

78. Commissioners to grant Certificates to Lenders for principal and interest.

And be it Enacted, That it shall and may be lawful for the said Commissioners from time to time to grant a security by deed, in the form of a certificate under the hands and seals of the said Commissioners, to every person who shall so advance any sum of money as aforesaid, setting forth the sum for which the several certificates collectively are to be issued, the amount of the sum for which each such certificate is issued, the date of such advance, and the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment or by instalments, and a general description of the Land for the drainage of which or of the reservoir for the construction of which such sum shall have been borrowed, and that every such certificate shall be duly stamped as a mortgage, and made in the following words, or as near thereto as the circumstances of the case will admit:

Form of Certificate.

"BY virtue of an Act passed in the sixth year of the reign of Her Majesty Queen VICTORIA [here insert the title of this Act], we, the undersigned, being the Commissioners for the execution of an Act passed in the seventh year of the reign of Her Majesty Queen VICTORIA [here set forth the title of this Act], in consideration of the sum of Pounds of lawful money of Great Britain to us lent and paid by do hereby certify, that the monies to become payable to us, under our award, for the drainage or construction of [here describe the land or reservoir], are hereby charged with the repayment of the said sum of Pounds, being the whole [or part, as the case may be,] of the sum of Pounds required to be borrowed for the purpose aforesaid [here insert the period when the money is payable, in one payment, or by instalments, as the case may be], together with interest thereon [or, if the money be payable by instalments, with interest on such part of the said principal money as shall remain unpaid from time to time], at and after the rate of Pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof we have hereunto set our hands and seals the day of ."

And the monies mentioned in each such certificate, with the interest thereon, shall be repayable and paid by the said Commissioners out of the monies which shall come to their hands under their award as aforesaid, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Commissioners, or any of them who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

79. Loans may be transferred.

And be it Enacted, That every person who shall be entitled to the money secured by any such certificate may transfer his right and interest to the said principal sum and interest money thereby secured to any person by writing, duly stamped, wherein the consideration shall be truly stated; and every such transfer may be in the following words, or words to the like effect:

"I [or,

" I [or, We], A. B. of , in consideration of the sum of to me this day paid by C. D. of do hereby transfer a certain certificate of charge made by the Commissioners for the execution of an Act passed in the year of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], to bearing date the day of for securing the sum of and interest, and all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said C. D., his, her or their executors, administrators, successors or assigns [as the case may be]. Given under my hand and seal this day of ". Form of Transfer.

Which transfer shall be produced and certified to the Secretary for the time being of the said Commissioners before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such Secretary shall make an entry amongst the records of the said Commissioners of the particulars of every such transfer, and sign the same.

80. Power to borrow Money at a lower rate of interest.

Provided always, and be it Enacted, That in case the said Commissioners can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for the said Commissioners to borrow and take up, and they shall (if so required by the parties interested) borrow and take up from time to time, in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the repayment of such new loan shall be secured in like manner upon the monies accruing to the said Commissioners under their award as aforesaid; and the said Commissioners shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

81. Money may be borrowed for the purposes of this Act from Commissioners of Public Works.

And be it Enacted, That it shall and may be lawful for the Commissioners appointed and acting under an Act passed in the fifth year of the reign of Her present Majesty, intituled, "An Act to authorize the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like purposes," or any Act or Acts for amending the same respectively; and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend

and advance any sum of money which may be necessary for the purposes of this Act upon the credit of the award to be made as hereinafter mentioned, provided that no advance of money shall be made by either of the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by either of such Commissioners shall be repaid from and out of the monies accruing to the Commissioners for the execution of this Act under the said award, by and from the charges aforesaid, within such period, either by One payment or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of the Treasury shall direct.

82. Accounts to be kept.

And be it Enacted, That the Commissioners for the execution of this Act shall cause books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid and expended about any drainage or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed and paid; which books shall, at all reasonable times, on giving Three clear Days' notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or other work to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

83. Commissioners to account yearly.

And be it Enacted, That Once at least in every year the said Commissioners shall prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works for the drainage of any such Land as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the said Commissioners at their office in London, and a copy of such account, signed by said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection at all reasonable times, on payment of a fee of Sixpence, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Commissioners and Clerk of the Peace shall furnish copies of or extracts from any such account or statements to any persons requiring same, upon payment of the costs of making such copies or extracts.

84. Commissioners to make an Award upon completion of any of the Works.

And be it Enacted, That as soon as conveniently may be after any works for the drainage of any Land under this Act, or any other work by this Act authorized to be executed, shall have been completed, the said Commissioners shall draw up, or cause to be drawn up,

up, an award or instrument in writing, which shall describe the Land drained as aforesaid, and the work or works which shall have been so completed; and such award shall also specify the several quantities belonging to the reputed proprietors respectively of such Land so drained as aforesaid, and the original value and the increase in the value of the Land so drained; and such award shall also specify the amount of the sums which shall have been expended in and about the works which shall have been so executed for drainage, or improvement by drainage, and all expenses incident thereto (including the interest of all borrowed monies), and the proportions of such sums payable in respect of the several parcels or portions of the Land drained or improved by drainage towards payment of the total amount of the costs, charges and expenses of such drainage, or incidental thereto, and whether the same shall be repaid in one sum or by instalments, and if by instalments, then said award shall also specify the several instalments, and the manner by and in which such proportions shall be paid, regard being had to the degree of benefit conferred as aforesaid, and the circumstances of each particular case; and in the case where any water-power shall be improved by the making of embankments or reservoirs, or any works so completed under the provisions hereinbefore contained, or executed with the consent of the proprietors of mills as aforesaid, the said award shall also specify the Lands liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which such lands shall be respectively charged, and whether the same shall be repaid in one sum or by instalments as aforesaid; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the Land so improved as aforesaid, and the proprietors of such Lands in respect thereof respectively for the time being, shall in future be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of each award.

85. A Draft of the Award to be printed and published, and a copy deposited with the Clerk of the Peace.

And be it Enacted, That the said Commissioners shall, within *One calendar Month* next after the making of their said award, cause a draft thereof to be printed, and sold at a price not exceeding *Two Shillings and Sixpence* for each printed copy thereof, and shall within such

such calendar Month cause such draft, or a copy thereof, to be deposited with the Clerk of the Peace for every county wherein the Land or River, or any part thereof, which shall have been drained or improved may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same, and all persons shall have liberty to inspect the same on the payment of *Sixpence*; and when such draft of the award has been so deposited, the said Commissioners shall cause notice thereof to be inserted Once in each week for *Three* successive Weeks in some One or more newspapers usually circulated in such district or the vicinity thereof; and the Commissioners shall by such notice require all persons who may desire to lodge objections to the said award, to lodge the same at such place within such district and before such time as shall be specified in the said notice; and the Commissioners shall also in the said notice state that their Sub-Commissioner will proceed to hear any objections which may be lodged, and to settle the award at such time and place in or near such district, as shall be specified in the said notice, such time not to be sooner than *Two* calendar Months from the first publication of such notice.

Notice thereof to be inserted in Newspapers, requiring Persons objecting thereto to send in their Objections.

86. Sub-Commissioner to hear and decide Objections (if any) to Award.

And be it Enacted, That the said Sub-Commissioner shall attend at such time and place as they shall so appoint, and shall examine into the matter of any objection which shall be so lodged to the award, and shall hear all such proper evidence as may be offered to him in respect thereof, and shall make such alterations (if any) in the said award as he shall think fit, and report the same to the Commissioners for their approval, and may adjourn such attendance from time to time, and shall sign such award.

87. Award, when finally settled, to be deposited in the Court of Chancery.

And be it Enacted, That every award, when finally settled and signed by the said Commissioners, with a proper map or plan annexed thereto, describing the district and the lands therein to which such award shall relate, shall be enrolled in the Rolls Office of Her Majesty's Court of Chancery in England within *Three* Months after the same shall have been finally settled, and a copy thereof shall be deposited with the Clerk of the Peace of each county in which such district shall be situate, who is hereby authorized and required to receive and deposit the same amongst the records of the county; and such award, when so finally settled and enrolled, shall be binding and conclusive on all parties, and a copy thereof, certified by the proper officer of Her Majesty's Rolls Office, shall be evidence that it was duly made, and that all the requisitions of this Act in relation thereto were complied with; and the said Commissioners shall, within *One Month* after the said award shall be finally settled, cause such award to be printed and kept for sale at a price not exceeding *Two Shillings and Sixpence* for each printed copy thereof.

And

88. Apportioned Expenses to be charged on Lands.

And be it Enacted, That the respective sums of money which by the award of the said Commissioners shall be specified as the proportions or contributions payable, in respect of the several parcels or portions of the Land drained or improved by drainage, or by any works under this Act, towards the total amount of the sums expended in and about such drainage or improvements as aforesaid, with interest for such respective sums of money, at the rate not exceeding *Five Pounds* per centum per annum from the date of such award, shall be charged on such several parcels or portions of the Land so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such Land: Provided nevertheless, That any quit or chief rent issuing thereout, or other incumbrance thereon, previously to the date of the said award, shall have priority to such charges, to the extent of the value of such Land before the improvements were effected, but no further; and the same respective sums of money, with such interest for the same as aforesaid, shall also be charged upon so much of any other Land situate within One Mile of any part of the Lands so drained or improved, and settled, with the Land so drained or improved, to the same uses, intents and purposes, by virtue of limitations contained in the same instrument or the same set of instruments as the said Commissioners shall by the said award or any instrument under their hands and seals, and enrolled in the said Rolls Office, direct, limit and appoint, having regard to the sufficiency of the said Lands to satisfy and secure the charge thereon, but subject as to such other Land to the full amount of all incumbrances affecting the same prior to the date of the said award: Provided always, That if at any time previous to the issuing of the final notice by the said Commissioners hereinbefore directed to be given in the London Gazette, and otherwise, any proprietor of Land situate within the limit aforesaid of the Land so drained or improved, and which Land would, under the provisions hereinbefore contained, become chargeable with any portion of the expenses of such improvement, shall prefer to give other security satisfactory to the Commissioners in lieu of the Land so liable, together with the Land so drained, that then and in such case the said Commissioners shall accept such security, and thereupon the other Land of such proprietor not so drained or improved shall stand freed and discharged from all liability to any portion of the expense of such improvement.

89. In case of non-payment of Money so charged, Commissioners may enter into receipt of the rents and mortgage the Land.

And be it Enacted, That if any sum of money so charged as aforesaid, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of Three calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the said Commissioners, or any person authorized by them, to enter upon the Land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, but

subject nevertheless to such quit or chief rent or other incumbrance (if any) as aforesaid, and the rents and profits of such Land to receive and take until thereby or otherwise the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents, profits and issues of such Land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery, upon the application by Petition of the said Commissioners, to appoint a receiver of the rents, profits and issues of such Land, which receiver shall have full power to receive the same rents, profits and issues, and apply the same, after deduction of the necessary expenses of the application to the said Court, and of such quit or chief rent issuing out of such Lands and premises (if any), and without prejudice to such prior incumbrances, or any remedy for the recovery of the same respectively, in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Commissioners, if they shall so think fit, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such Land or a competent part thereof; and every such mortgage, and every receipt given for the consideration-money, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Commissioners is hereby authorized.

90. Proprietors of less than fee-simple may charge the Expenses on the Lands.

And be it Enacted, That any person entitled to less than an immediate estate of fee-simple may, with the consent of the said Commissioners, charge (according to the like priority, and subject to the like incumbrances as aforesaid) the Land to which he shall be entitled, and which shall have been drained, or improved by drainage, under the provisions of this Act, with the proportion of any expenses to be defrayed by him under the award of such Commissioners, or any part thereof, with lawful interest thereon; but so, nevertheless, that the charge upon such Lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least *One-twentieth part* of the whole sum of the instalments charged thereon by the award of the Commissioners, and the interest in respect thereof.

91. Power of leasing Lands improved.

And be it Enacted, That it shall be lawful for any tenant in tail or for life, being a proprietor, whose estate as such may be liable to the payment of any expenses chargeable under or by virtue of the provisions of this Act, at any time after a copy of any such said award shall have been deposited with the Clerk of the Peace as aforesaid, to lease the Land drained or improved by drainage, and described in the said award, which shall belong to him, for any term not exceeding *Twenty* Years,

Years, provided he shall reserve the best improved rent which can be reasonably had for the same, without any fine or foregift.

92 Tenants paying Monies on account of Landlord, to deduct them from Rent.

And be it Enacted, That every occupier of any Land who, not being a proprietor thereof within the meaning of this Act, shall pay any sum of money for the Land in his occupation, on account of his landlord, any sum charged thereupon under and by virtue of the provisions of this Act, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the next immediate landlord of such occupier, if not himself a proprietor of such Land within the meaning of this Act, shall and he is hereby authorized to make the like deduction from the rent payable by him, and so on each sub-lessee and sub-lessor of such Land, not being a proprietor thereof within the meaning of this Act, being entitled to deduct the same so charged upon such Land, under or by virtue of this Act, from the rent payable to his next immediate landlord, until such deduction shall be made from the rent payable to a person being a proprietor within the meaning of this Act, who shall not be entitled to make any such deduction from the rent (if any) payable by him; and every such occupier, sub-lessee or sub-lessor paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any occupier or lessee to deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

93. Mode of appointing Trustees.

And be it Enacted, That the said Commissioners shall and they are hereby required to call a meeting of the proprietors of the Land included in each district, within Three calendar Months at least after the date and execution of the said award, by notice to be inserted Once in each week for Three successive Weeks in some One or more newspaper or newspapers usually circulated in the vicinity of such Land, in order to make choice of Trustees for the further execution of this Act; and such Trustees so to be chosen shall not be less than Three nor more than Nine; and they shall continue in office for the term of *Seven* Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of *Seven* Years, and also at the expiration of every succeeding term of *Seven* Years for ever thereafter, new Trustees shall from time to time be in like manner chosen by the proprietors of the Lands included in such district, at a meeting for that purpose to be holden; and the said Trustees that shall be elected shall be chosen by the proprietors of the greater portion of such Lands in value (such value to be calculated according to the proportions of the annual rate

or tax with which they shall be respectively chargeable by virtue of this Act), or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and such Trustees, or the majority of them for the time being, are hereby fully authorized to make, alter, support and maintain, or cause to be made, supported, altered and maintained, all such cuts, drains, banks, sluices, tunnels, bridges, engines, buildings and other works in and about the Land so drained as aforesaid as they shall think necessary for draining and preserving the same; and all the powers and provisions of this Act relating to the Commissioners, which apply to or can be exercised by the said Trustees, shall be and the same are hereby extended to the said Trustees as if the said Trustees as well as the said Commissioners had been expressly mentioned in such powers and provisions respectively; and in case any Trustee shall die, or refuse or become incapable to act in the execution of this Act, before the expiration of the term of *Seven* Years for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of *Seven* Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of *Seven* Years; and that every such Trustee being so chosen shall, during the remainder of the existing term of *Seven* Years, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being, and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of *Seven* Years, and after the death, refusal or incapacity of any Trustee, and until new Trustees or new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly-elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

94. Trustees to hold annual Meetings, and fix the Amount to be raised for Maintenance and Repairs for the ensuing year.

AND for the purpose of effectually sustaining and upholding, in all cases in which works shall be executed under this Act, all and singular the drains, watercourses, banks, sluices, floodgates, tunnels, watergates, buildings, bridges, steam or other engines and other works, and of supplying in such cases all things that may be required to work the same, and for the payment of all necessary expenses of maintenance of works of drainage, reservoirs and water-power, and all other expenses incident thereto; BE it Enacted, That it shall be lawful for the said Trustees, and they are hereby authorized and required, Once in every year, to meet in some convenient place, and then to determine and fix the sum of money that shall be contributed and raised during the then

then ensuing year, for the purposes of effecting, sustaining, supporting and upholding all and singular the aforesaid works, and for other the purposes of this Act, and (having regard to and in the proportions fixed for such purpose by the said Commissioners in their award) to assess, rate and tax the proprietors of the said Land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said several sums so rated and assessed shall be charged on the Land so drained or improved in preference to and with priority over all incumbrances thereon: Provided nevertheless, That any quit rent or chief rent or other incumbrance thereon previous to the date of the final award hereinbefore mentioned shall have priority to such sums of money so rated or assessed to the extent of the value of such Land before the improvements were effected, but no further; and the said Trustees shall have the same powers, rights and privileges, by entry or mortgage, to enforce the payment of all such last-mentioned sums of money, costs, charges and assessments as are hereinbefore given to the said Commissioners for the enforcing payment of the sums charged under their award as aforesaid; and at every such meeting held by such Trustees, all questions shall be determined by the majority of the Trustees who shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act, without the concurrence of the other or others of them.

95. Commissioners to settle Differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested or claiming to be interested in any Land to be drained in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such Land, or touching any other matter relating thereto, it shall be lawful for the said Commissioners, by their Sub-Commissioner, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned, for the purpose of this Act, but no further or otherwise.

96. Commissioners may have an Assessor.

And be it Enacted, That upon any inquiry or proceeding requiring legal assistance, to be had before the said Sub-Commissioner, in pursuance of the provisions of this Act, it shall be lawful for the said Sub-Commissioner, should he so think fit, to retain and appoint as his assessor any One of Her Majesty's Counsel at Law to act with and assist the said Sub-Commissioner in adjudicating upon the matter of such inquiry or proceeding as aforesaid; and it shall be lawful for the said Commissioners to defray the expenses of retaining or appointing such assessor out of the funds at their disposal under this Act.

97. Persons summoned by Sub-Commissioner, and refusing to give Evidence, to be punished.

And be it Enacted, That it shall be lawful for the said Sub-Commissioner, upon any inquiry or proceeding to be had before him under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Sub-Commissioner is hereby empowered to administer) any person whomsoever; and if any person having been so summoned before the said Sub-Commissioner to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained by the said Sub-Commissioner, to defray the charges of his attendance, shall not appear before the said Sub-Commissioner pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the said Sub-Commissioner, upon proof thereof upon oath, shall and he is hereby authorized, by warrant under his hand and seal, to direct any person whomsoever to cause any sum of money, not exceeding Five Pounds, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any), upon demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence, or otherwise forswear themselves in any such examination, may be prosecuted for the same, and upon conviction thereof shall be liable to the same pains and penalties as persons guilty of wilful and corrupt perjury are now liable to by law.

98. Power to assess Costs.

And be it Enacted, That in case the said Sub-Commissioner shall, upon the hearing and determination of any claim or objection to be delivered to or made before him in pursuance of this Act, so think proper, it shall be lawful for him to award and order such costs and charges as he shall think reasonable to be paid to the party in whose favour any such determination shall have been made by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same, on demand, then and in every such case it shall be lawful for the said Sub-Commissioner, and he is hereby authorized and required, by warrant under his hand and seal, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any), on demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Sub-Commissioner

sioner shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action; and in case such person shall upon the trial of such action establish the right against which the Sub-Commissioner shall have determined, such person shall not be liable to the payment of any such costs as last aforesaid, but shall be entitled to his costs of such action.

99. Allowing Parties to try their Rights by an Issue at Law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any Land to be included in any drainage or improvement to be effected in pursuance of this Act shall be dissatisfied with any determination of the said Sub-Commissioner concerning any right or interest in, over or upon such Land, or any part thereof, made in the execution of this Act, or any injury or damage sustained by him by reason of any thing done by the said Sub-Commissioner, or by his authority, or in the prosecution of any of the said works, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue against the person in whose favour any such determination has been made, within *Three* calendar Months after the determination of the said Sub-Commissioner shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within *Three* Months after such injury or damage shall have been sustained, and thereupon the person so dissatisfied shall proceed to a trial at law at the next assizes immediately following to be held for the county where the Land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined, according to the event of such trial, within *Three* calendar Months as aforesaid; or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said Sub-Commissioner shall be binding and conclusive to all intents and purposes whatsoever: Provided also, That

If no Action, the Sub-Commissioners' Determination to be final.

Death of Parties not to stop Proceedings at Law.

Suits not to delay the Drainage.

if any of the parties in any such action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened: Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the said Commissioners in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in, notwithstanding such differences or suits.

100. Death of Parties not to suspend the execution of this Act.

And be it Enacted, That if any of the parties interested in the said proposed works shall die before the same shall be completed, the powers and authorities vested in the said Commissioners shall not be thereby determined or suspended, but the said Commissioners shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

101. How Actions may be brought after the Death of Parties.

Provided always, and be it Enacted, That if any person in whose favour a determination as aforesaid shall have been made, and against whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir, or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been actually living; and the rights of all parties shall be equally bound and concluded by the event of such action.

102. Accounts to be laid before Parliament.

And be it Enacted, That the said Commissioners shall cause detailed accounts in writing of their proceedings under this Act, and of the several sums received by them as such Commissioners, and of the sums expended by them, and the mode of such expenditure, and of the several works made or in progress under this Act, to be made up to the Thirty-first day of December in each year; and such account shall be laid before both Houses of Parliament within *Thirty* Days thereafter, if Parliament be then sitting, or within *Thirty* Days after the first meeting of Parliament subsequent to the Thirty-first day of December; and the said Commissioners shall, as often as they shall be required so to do by the Commissioners of Her Majesty's Treasury,

Treasury, transmit to the said Commissioners of the Treasury like accounts made up to such period as the said Commissioners of the Treasury shall direct.

103. Commissioners to make Bye-laws.

And be it Enacted, That it shall and may be lawful for the said Commissioners, and they are hereby authorized and empowered from time to time to make such bye-laws, rules, orders and regulations, not being contrary to any law or statute, as to them shall seem meet and proper, according to the circumstances of every case, for better carrying into effect the purposes of this Act or in any manner relating thereto, and from time to time to alter or repeal all or any of such bye-laws, rules, orders or regulations, and to make others, and to impose such fines and penalties, not exceeding the sum of *Five Pounds*, upon all persons offending against any of such bye-laws, rules, orders or regulations, as to the said Commissioners shall seem reasonable; and all such bye-laws, rules, orders and regulations shall be reduced into writing, and signed by the said Commissioners or any Two or more of them; and a copy thereof, signed by the said Commissioners, shall be deposited with the Clerk of the Peace of every county in which any part of such district to which such bye-laws shall relate shall be situate, and the same shall be kept with the records of the county; and such bye-laws, rules and orders shall be binding upon and shall be observed by all persons whomsoever; provided that all such bye-laws, rules, orders and regulations be approved of and confirmed by the Commissioners of Her Majesty's Treasury, by writing under their hands.

104. Copy of Bye-laws to be Evidence.

Provided always, and be it Enacted, That in all cases of prosecution for any offence or offences against any of the bye-laws, rules, orders and regulations of the said Commissioners, the production of a book or document purporting to contain the bye-laws, rules, orders or regulations of the said Commissioners, and authenticated by the signatures of any Two or more of the said Commissioners, shall be evidence of the existence of such bye-laws, rules, orders or regulations: Provided always, That in every such prosecution it shall be proved that such printed copy as aforesaid of such bye-laws, rules, orders or regulations was duly deposited in manner hereinbefore directed.

105. Persons destroying Works, guilty of Felony.

And be it Enacted, That all and every person or persons whomsoever who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of *Seven* Years, or to be imprisoned for any term not exceeding *Two* Years.

106. Penalty on Persons depositing Gravel, &c., so as to obstruct the free passage of the Water in the Rivers, &c. improved under this Act.

And be it Enacted, That if any person shall throw or deposit any ballast, gravel, or other matter or thing, so as to interrupt or obstruct the free passage of water through any of the rivers, streams, watercourses, drains, cuts or sluices, which shall have been improved by the said Commissioners under this Act, or shall, without the consent of the said Commissioners, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks of the rivers, drains or sidecuts aforesaid, so as the same may be likely to fall into or obstruct the passage of the water, or if any person shall maliciously open any sluice, dam, gate or watercourse belonging to the said drainage, or shall raise any wall, building or other obstruction in said drains, rivers or streams, without the consent in writing of the Commissioners, such person, being convicted of any of the offences aforesaid before any Justice or Justices of the Peace of the county where such offence shall be committed, by the oath of One or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding Ten Pounds, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices; and all such walls, buildings or other obstructions may be forthwith pulled down and removed by the said Commissioners, or any person or persons duly authorized by them, and the materials of such walls, buildings or obstructions may be sold by order of the said Commissioners to defray the costs of their removal.

107. Penalty on Persons assaulting Commissioners and others engaged on the Works.

And be it Enacted, That if any person or persons shall wilfully prevent or assault any of the Commissioners for the execution of this Act, or any engineer or other officer, servant or workman, acting in aid or under the orders of any such Commissioners in the execution of any of the powers given by this Act, or shall wilfully destroy or injure any of the instruments, tools or implements, or materials kept or used by the said Commissioners or any of them, or by any person or persons employed by them or any of them, for or in the execution, maintenance or repairs of any of the works under this Act, any person so offending shall forfeit and pay for every such offence, upon conviction thereof by the oaths of One or more credible witness or witnesses before any Justice of the Peace, such sum, not exceeding *Five Pounds*, as such Justice shall think fit.

108. Proceedings by Summons for the recovery of Penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender, and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the

the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons without information in writing shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

109. Form of Conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in words to the same effect:

to wit. } "BE it Remembered, That on the day of A. B. is convicted before Her Majesty's Justices or Justice of the Peace for the county of by virtue of the Act passed in the seventh year of the reign of Her Majesty Queen Victoria, intituled [here insert the title of this Act, specify the offence, and the time and place when and where the same was committed, as the case shall be]; and we do adjudge that the said A. B. shall for the said offence . Given under our hands and seals [or, my hand and seal] the day and year aforesaid."

110. Recovery and application of Penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or incurred under the provisions or directions thereof, and all sums payable for compensation or damage, the manner of levying and recovering whereof is not hereinbefore otherwise particularly directed, may be recovered in a summary way by the order and adjudication of some Justice of the Peace of the county in which such offence shall have been committed, on complaint to him for that purpose exhibited by the oath or affirmation of any person, or on the confession of the party offending, which oath or affirmation such Justice is hereby authorized to administer; and in default of payment of such penalties or forfeitures, or sums for compensation or damage, the same shall be levied by distress and sale of the goods and chattels of the party making such default, by warrant under the hand and seal of such Justice, rendering the overplus (if any), on demand, to the party whose goods and chattels shall be so distrained, the reasonable charges of such distress and sale being deducted; and in case such penalties or forfeitures shall not be forthwith paid off, it shall be lawful for such Justice, and he is hereby authorized and required to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made of such warrant of distress, unless the offender can give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice, or before some other Justice of the Peace for the county where such offence shall

have been committed as aforesaid, on such day or days as shall be appointed for the return of the warrant or warrants of distress, such day or days not being more than Eight Days from the taking any such security, and which security any Justice is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the penalty and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he has no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain at hard labour for any time not exceeding Three calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid, and be by them applied to the purposes of this Act.

111. Proceedings not to be quashed for want of form

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or, in case of appeal, before the court of quarter sessions, shall not be quashed or vacated for want of form only.

112. No Action to be brought against Person acting in execution of this Act, until after Notice, &c.

And be it Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees, or persons against whom proceedings are intended to be commenced, at least *Twenty-one* Days before such action, suit or information shall be commenced.

113. No Action to be brought after tender of sufficient amends, &c.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought;

brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

114. General Issue.

And be it Enacted, That if any action shall be brought against any person or persons as aforesaid for any act, matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give the special matter in evidence.

115. Appeal to Quarter Sessions where parties think themselves aggrieved.

And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing done by virtue of this Act, except in cases hereinbefore provided for, to appeal to the general quarter sessions of the peace which shall be held in the county wherein the matter of complaint may arise, or any adjournment thereof, within *Six* calendar Months next after the cause of complaint shall have arisen, first giving or causing to be given *Twenty-eight* Days' notice thereof in writing to the Commissioners or Trustees, or One of them, and to the parties intended to be appealed against; and the Justices at their said quarter sessions, or any adjournment thereof, are hereby authorized and required to hear and determine the matter of such appeal, and to make such order respecting the same, and to award such costs as to them in their discretion shall seem meet, and by their warrant to levy the costs awarded by distress and sale of the goods and chattels of the parties respectively adjudged to pay the same, and rendering the overplus (if any) to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and in case such appeal shall appear to the said Justices to be frivolous, vexatious or without foundation, then the said Justices shall award such costs to be paid by the appellant or appellants as to them in their discretion shall seem reasonable, and to be levied in manner aforesaid.

116. Commissioners not liable for Damage arising to Lands, &c., from insufficiency of Embankments, &c., unless Notice previously given.

And be it Enacted, That nothing herein contained shall be construed to render the said Commissioners or Trustees respectively liable for any consequential damages which may happen to any Land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, the said Commissioners or Trustees may take upon them the duty of regulating or maintaining: Provided nevertheless, That if the owner or occupier of such Land shall have given notice in writing to the said Commissioners, or to One of such Trustees, warning them or him of

the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring them or him to strengthen, amend and repair the same, and the said Commissioners or Trustees (as the case may be) shall not, within Seven Days next after the delivery of such notice, take proper precautions to prevent the same, then and in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by the said Commissioners or Trustees under this Act.

117. Penalty for wilfully causing Obstructions in Streams or Rivers.

AND whereas much injury is caused by persons placing or throwing stones and other materials into rivers, streams and drains, and thereby and otherwise raising obstructions therein; BE it therefore Enacted, That if any person shall, after the *passing of this Act*, wilfully throw or place any stones, gravel or other material in any stream, river or watercourse, and thereby or by any other means create any obstruction in the free discharge of the waters therein, whereby the Lands of any other person or persons may be flooded or in any manner injured, every such person, being convicted thereof before Two or more Justices of the Peace at petty sessions, shall forfeit and pay such sum, not exceeding the sum of *Five Pounds*, as such Justices may think proper, which penalty shall, in case of private property, be paid to the party aggrieved, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as such Justices of the Peace shall direct; and if such penalty, together with costs, if awarded (which costs such Justices of the Peace are hereby authorized to award if they shall think fit), shall not be paid, either immediately after the conviction, or within such period as such Justices shall at the time of the conviction appoint, the said Justices may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the said Justices shall think fit, for any term not exceeding *Two* calendar Months, unless such sum and costs be sooner paid; and it shall be lawful for such Justices to direct that the obstruction complained of shall be removed, and include in the costs which such Justices are hereinbefore authorized to award the expense of removing such obstruction: Provided always, That nothing herein contained shall extend to any case where the person complained of acted under a fair and reasonable supposition that he had a right to do the act complained of.

118.

Provided always, and be it Enacted, That nothing in this Act contained shall extend to or affect the powers vested in the Commissioners appointed under any local or private Act of Parliament for Sewers or Drainage, or of any Commissioners of Sewers within the distance of Ten Miles from the Royal Exchange, in the city of London, or any charter,

charter, law, usage or custom concerning Romney Marsh, or concerning the North Level of the Fens, being part of the Great Level of the Fens, called the Bedford Level.

119. Saving Navigable Rivers and Canals.

Provided always, and be it Enacted, That nothing herein contained shall authorize or enable the said Commissioners, or any person or persons acting or pretending to act under this Act, to make or construct any work injurious to the navigation of any navigable river or canal, nor shall authorize or enable the said Commissioners materially to lessen the supply of water thereto, without previously making equivalent provision in lieu thereof; and should the Commissioners, directors or managers of any navigable river or canal be dissatisfied with the decision of the Commissioners, in respect to any work proposed to be made by the said Commissioners, and which work, in the opinion of such directors and managers, shall be injurious to navigation, or in respect of the adequacy of the provisions proposed to be made for the supply of water to any canal, it shall be lawful for such managers and directors to apply by Petition in a summary way to the Court of Chancery, complaining of such decision, in the same manner and under and subject to the same restrictions and provisions as persons interested in any mill or factory affected or proposed to be affected by any thing to be done under the provisions of this Act are hereinbefore empowered to apply to such Courts for relief, and thereupon such Court shall exercise the like jurisdiction, powers and authorities as in such cases hereinbefore provided.

120. Provision for Taxation of Costs.

And be it Enacted, That the Solicitor of the Board of Commissioners shall be employed and do all professional business which may be necessary to be done under and by virtue of this Act, and that he shall not be entitled to receive any payment as remuneration for such services beyond the amount of such salary as may be payable to him as such Solicitor of said Board: Provided always, That nothing herein contained shall be construed to prevent the said Solicitor from charging for and receiving payment of all such disbursements and expenses as may be necessarily and properly made and incurred in the performance of such professional business, of the necessity and propriety of which disbursements and expenses the said Commissioners shall judge, and when paid by the said Board, the amount so paid for such disbursements and expenses shall be charged upon and leviable out of the Lands in respect of which the same have been incurred, in like manner as the other sums chargeable thereon under and by virtue of this Act.

121. Provision for Districts

And be it Enacted, That wheresoever throughout this Act any act, matter or thing may be directed to be done at the petty sessions for

where there are no Petty Sessions.

the district wherein any place may be situate, the same shall and may be done at the petty sessions for the next adjoining district, in any case where such place shall not be included in any such district.

122. Definition of Terms in this Act.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act shall exclude such construction) the word "Land" shall extend to all arable, pasture, or otherwise profitable, and to all waste uncultivated land, whether bog-land, land periodically flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other hereditaments, corporeal or incorporeal, and any estate or interest therein, and any undivided part thereof, and any charge or incumbrance thereon; and the word "River" shall extend to all rivers, lakes, canals, streams and estuaries; and the words "Person or Persons," and the words "Proprietor or Proprietors," shall extend to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to Lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the expression "Chief Rent" shall extend to and include all rent or rents reserved upon or payable out of or in respect of the estate or interest of any person being a proprietor within the meaning of this Act, or any estate or interest paramount thereto; and the word "Counties" shall extend and be applied to all counties, counties of cities, and counties of towns; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

123. Piers not to be constructed without leave of the Admiralty.

Provided always, and be it Enacted, That nothing in this Act contained shall authorize the said Commissioners, or any Trustees elected hereunder, or any other person, to construct or erect any pier, quay, wharf, jetty, breast or embankment in or adjoining to any public harbour, or any river immediately communicating therewith, so far as the tide flows up the same, without the previous authority and consent of the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral of the United Kingdo m, to be for that purpose signified in writing under the hand of the Secretary of the Admiralty for the time being.

124. Saving the Property of the Ordnance.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or in any manner affect any of the estates, rights or property of Her Majesty,

Majesty, Her heirs or successors, or of the principal officers of Her Majesty's Ordnance, in trust for Her Majesty, Her heirs or successors, for the public service, or authorize or enable the said Commissioners, or any Trustee to be elected under the authority of this Act, or any other person or persons whomsoever, in any manner to interfere with any fortification, battery or other work of defence on any such estates, rights or property as aforesaid, or any easement, watercourse or other commodity or advantage belonging to or enjoyed therewith, or to quarry, dig or raise gravel, earth, stones, sand or other materials therein, without the consent of the said principal officers, or their successors in office, for the time being.

125. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Drainage of Lands.

A

B I L L

To facilitate the Drainage of Lands in England and Wales.

(*Prepared and brought in by Mr. Pusey, Lord Worsley, and Sir John Trollope*).

Ordered, by The House of Commons, *to be Printed,*
15 *March* 1843.

[*Price* 7½*d.*]

101.

Under 8 *oz.*

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Drainage of Lands, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands.

N.B.—*The Clauses marked* (A.) *to* (AA) *were added by the Committee.*

Preamble.

WHEREAS it is expedient that provisions should be made for promoting the Drainage of Lands in England, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for one of Her Majesty's Principal Secretaries of State to appoint Three fit persons to be Commissioners to carry this Act into execution, and at his pleasure to remove any one or more of the Commissioners so appointed, and upon every vacancy in the office of Commissioner to appoint some other fit person to the said office; and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

1. Appointment of Commissioners.

2. CLAUSE (A.) Style of the Commissioners.

And be it Enacted, That the said Commissioners shall be styled "The Drainage Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any Two of them may sit, from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed or stamped therewith all declarations and awards made and confirmed by the said Commissioners in pursuance of this Act; and all such declarations and awards and all other instruments proceeding from the said Board, or copies thereof purporting to be sealed or stamped with the seal of the said Board, shall be received in evidence without

without any further proof thereof; and no declaration or award shall be of any force unless the same shall be sealed or stamped as aforesaid.

3. CLAUSE (B.) Declaration.

And be it Enacted, That every such Commissioner shall, before he shall enter upon the execution of his office, make the following Declaration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say),

I, do solemnly declare, That I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act.]

And every such Assistant Commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of any such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justice or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

4. Commissioners to report.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings or any part thereof as the said Principal Secretary of State shall require, and shall, Once in every year, send to one of the Principal Secretaries of State a General Report of their proceedings, and every year such General Report shall be laid before both Houses of Parliament within Six Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within Six weeks after the next meeting thereof.

5. CLAUSE (C.) Power to appoint Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to appoint a sufficient number of persons to be Assistant Commissioners, and also a secretary and assistant secretary, and all such clerks, messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, secretary or assistant secretary, clerks, messengers, or officers, or any of them, and

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on any vacancy in any of the said offices, to appoint some other person to the vacant office; and the person so appointed shall assist in carrying this Act into execution, at such places and in such manner as the said Commissioners may direct.

6. Clause (D.) Appointments limited to Four Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, secretary, assistant secretary, or other officer or person so to be appointed, shall hold his office for a longer period than Four Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Four Years, and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

7. Clause (E.) Salaries and Allowances.

And be it Enacted, That the salaries of the Commissioners, the allowance to the Assistant Commissioners, and the salaries of the secretary, assistant secretary, clerks, messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord Treasurer or the Lords Commissioners of Her Majesty's Treasury, or any Three of them: Provided also, That the said Lord Treasurer or Lords Commissioners may allow to any Commissioner, Assistant Commissioner, secretary, assistant secretary, clerk, messenger or other officer, any such reasonable travelling and other expenses as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance respectively.

8. Clause (F.) Salaries, &c. to be paid out of the Consolidated Fund.

And be it Enacted, That the salaries, allowances and travelling and other expenses of the Commissioners, Assistant Commissioners, secretary, assistant secretary, clerks, messengers and officers, as aforesaid, and all other incidental expenses of carrying this Act into execution, not herein otherwise provided for, shall be paid by the Lord Treasurer or the Lords Commissioners of Her Majesty's Treasury, out of the Consolidated Fund.

9. Clause (G.) Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners or to any one or more of them such of the powers hereby given to the Commissioners as the Commissioners shall think fit, except the power to make or confirm declarations or awards, or the power to do any act hereby required to be done under the seal of the Commissioners; and the powers so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner, in pursuance of such delegated power, shall be of the same force and

effect, and shall be obeyed by all persons, as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner: Provided also, That all acts and matters which, under the provisions hereinafter contained, are directed or authorized to be done or transacted by an Assistant Commissioner or Assistant Commissioners, may be done and transacted by the said Commissioners or any One of them.

10. How Persons interested in Lands liable to be flooded may proceed.

And be it Enacted, That it shall be lawful for any person interested in any Land liable to be flooded or injured by water, or capable of being drained, or of being improved by better drainage, or in any Land capable of being improved by warping, irrigation or embankment, or by more effectual warping, irrigation or embankment, to apply by memorial to the Commissioners for the execution of this Act, showing the means by which such Land may be drained, or such improvement may be effected, and praying that such drainage or improvement may be effected under the provisions of this Act; and to such memorial shall be annexed maps or plans, showing the Land to which such application shall relate, and the Land and property required to be taken, cut through, used, altered or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works; and also the rivers, watercourses, ditches and drains intended to be cleared, scoured, deepened or embanked, and the proposed variations, divisions, abridgments or enlargements of the same, and the new cuts, embankments, drains, watercourses and other works proposed to be made, and the engines and machinery proposed to be erected and kept up for the purposes of such drainage or improvement; and also schedules, showing the reputed proprietors, lessees and occupiers of the Lands proposed to be drained and improved, and the Lands and property required to be taken, cut through, used, altered or interfered with, and likely to be affected respectively for the purposes of such drainage or improvement; and also an estimate of the expense of the proposed works, engines and machinery, including the probable amount of money payable as purchase and compensation in respect of the Land and property required to be taken, cut through, used, altered or interfered with, and likely to be affected as aforesaid; and also a statement of the actual condition of the Lands proposed to be drained or improved, and of the probable increased value of the Land consequent upon the proposed works; and the persons by whom such application shall be made, shall, upon the request of the Commissioners, furnish such further details in respect of the said maps or plans, schedules, estimates and statements as the Commissioners shall think fit for their guidance in the matter of the memorial; and the persons by whom such application shall be made shall cause copies of the said memorial, maps or plans, schedules, estimates and statement to be deposited in such convenient place or

places

places as the Commissioners shall approve, within or near the district in which the land to which such application shall relate shall be situate, there to remain open for public inspection, and the deposit of such copies shall be certified to the said Commissioners in such manner as they shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said memorial, maps, plans, schedules, estimates and statement; and copies thereof or extracts therefrom shall be made, by such person as the said Commissioners shall direct, for any person who shall require the same, on payment of the costs of making such copies or extracts.

11. Publication of a Notice that Maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice of such memorial having been presented, and of the parishes in which works are by such memorial proposed to be executed, and of the places in which copies of the said memorial, maps, plans, schedules, estimates and statement have been deposited as aforesaid, to be published in some newspaper usually circulated in the county in which the Land proposed to be drained or improved shall be situated, or by such other means as they shall think fit; and in all cases where it shall be proposed by such memorial to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction, a copy of such notice shall be served on the owner, or reputed owner, and the lessee or occupier of, or posted on or near to such mill, factory, weir, dam, work or obstruction; and by such notice all parties interested or in any way affected by the proposed works, shall be required, on or before a day to be therein named, not sooner than Six Weeks from such publication and posting or service as aforesaid of such notice, to transmit to the Commissioners their objections (if any) to the said maps, plans, schedules, estimates and statement, and all other objections which such parties shall think fit to make with respect to any thing by the said memorial proposed to be done under the provisions of this Act.

Form of Notice to be scheduled in Appendix.

12. Meeting of the Persons interested to be called by public Notice.

And be it Enacted, That the said Commissioners shall, either by the notice to be published as aforesaid, or by a subsequent notice to be published in like manner, call One or more public meetings of all persons interested in the Land proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of Six Weeks, and at such convenient place or places within the district wherein such Land so to be improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice: Provided always, That if the said Commissioners shall call such One or more meetings by a subsequent notice as before provided, they shall fix for such meeting a day, not sooner than Twenty-one Days from the date of such subsequent notice.

13. Proceedings at Meeting.

And be it Enacted, That at the time and place named in such notice as aforesaid, an Assistant Commissioner shall attend on the part of the Commissioners, and shall have power to adjourn any meeting from time to time, or hold any new meeting, as he may find necessary; and shall inquire into the correctness of the schedules containing the names of such reputed proprietors, lessees and occupiers as aforesaid; and shall hear and inquire into, on oath or otherwise, all such objections as shall have been or shall be then and there made by any person or persons interested in the said lands to the said memorial, maps, or plans, schedules, estimates and statement which shall have been made under the provisions hereinbefore contained, or the matter thereof respectively, or the drainage or improvement proposed to be effected; and also all such objections as shall have been made, or shall then and there be made, by or on behalf of the owner, lessee or occupier, or other person interested in any mill or factory, weir, dam, work or obstruction, or any Land likely to be affected by any thing by such memorial proposed to be done; and the said Assistant Commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid, and shall take or receive the assents in writing of the proprietors of the Lands proposed to be drained or improved to the execution of the proposed works, and to the formation of the Lands proposed to be drained or improved into a drainage or improvement district under the provisions of this Act; and such Assistant Commissioner shall report all such objections, evidence and assents as aforesaid, with his observations thereon, to the Commissioners; and the Commissioners shall consider the proposed drainage or improvement, and the said memorial, maps, plans, schedules, estimates and statement, and such objections as may have been made thereto, and may allow or disallow the proposed works, or alter the plan of such proposed works, or any part thereof, as they may think fit: Provided, That if the Commissioners should alter the proposed works, or any part thereof, they shall call a subsequent meeting, subject to the aforesaid provisions, at which the alterations and estimates of the cost of such alterations proposed by the Commissioners shall be laid before the meeting for their assent or dissent, in manner aforesaid.

14. Declaration of a Drainage or Improvement District.

And be it Enacted, That in case the Commissioners shall approve such plan as aforesaid, it shall be lawful for the Commissioners to declare that the Lands proposed to be drained or improved as aforesaid, shall be a drainage district, or, as the case may require, a warping, irrigation or embankment district, within the provisions of this Act, by such name as the Commissioners shall in their declaration mention in this behalf, upon such assents being given as hereinafter mentioned, or (in case it shall appear to the Commissioners that such assents have been already given) from and immediately after the publication of such declaration; and in

case

case such declaration shall be made by the Commissioners, and such assents shall have been given or shall be given according to the provisions of this Act, to the execution of the proposed works, and to the formation of such district, then immediately after such declaration, or (whichever shall last happen) after such assents shall be given, such Land shall be a district accordingly for the purposes of the drainage or other improvements mentioned in such declaration; and the trustees of such district shall be elected as hereinafter mentioned: Provided always, That every such declaration of the Commissioners, or some schedule thereto, shall describe the Lands to be included in such district, and the proportions in which the respective Lands shall be chargeable towards the expenses of the proposed works, until the award shall have been made or until the Commissioners shall have otherwise directed under the provisions hereinafter contained; and in case the assents required by this Act shall have been given, the names of the proprietors who shall have given such assents: Provided also, That in case such assents shall not then have been given, and shall be subsequently given according to the provisions of this Act, notice of such assents having been given shall be published by the Commissioners in like manner as herein provided concerning the publication of such declaration as aforesaid.

15. Contiguous Land may be included in Drainage, &c. District.

Provided always, and be it Enacted, That if any persons interested in Lands contiguous to the Land proposed to be drained or improved as aforesaid shall, at or before any meeting to be held as aforesaid, claim to be admitted into the district which may be formed for the purposes of such drainage or improvement, then, upon the assent of the proprietors of Three-fourths or more in extent of such contiguous Land, it shall be lawful for the Commissioners to include such contiguous Land in such district accordingly.

16. No drainage, &c. District to be formed, unless Three-fourths of Proprietors assent.

And be it Enacted, That no Land shall be a district for the purposes of this Act, unless the proprietors of Three-fourths in extent of the Land proposed to be included in such district shall assent to the execution of the proposed works, and to the formation of such land into such district, in writing under their hands respectively, within such time as the said Commissioners shall appoint.

17. Who shall be deemed Proprietors.

And be it Enacted, That any person seised of or entitled to any portion of the Land proposed to be drained or improved, in possession, as tenant in fee-simple or in fee-tail, general or special, or as tenant by curtesy, and also any person who shall be entitled under any will or settlement, or any other deed or instrument (except a grant or lease reserving rent, or an agreement in writing for such grant or lease), for his own life or the life of any other person, or for years determinable on such life, and also every feoffee or trustee

trustee of any such Land, or of any such estate or interest therein as aforesaid, for charitable or other purposes, shall be deemed a proprietor of such Land for the purposes of this Act; and in every case in which any person seised, possessed of or entitled to any such Land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall be deemed a proprietor of such Land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him, which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, unless such person shall be in actual possession or in receipt of the rents and profits, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any Land so proposed to be drained or improved, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed the proprietor for the purposes of this Act as shall be in the actual occupation of the said Land, or as shall have such estate or interest as aforesaid therein next in reversion or remainder to the estate or interest of the person in actual occupation.

18. Joint Tenants to be accounted as one Person.

And be it Enacted, That co-trustees, joint tenants, tenants in common, and co-parceners jointly interested in any portion of Land proposed to be drained or improved, shall, in respect of the Land in which they are so interested, be accounted as one person: Provided always, That the assent or act of any one or more of such co-trustees, joint tenants, tenants in common and co-parceners shall, unless the other or others of them shall dissent therefrom, be a valid assent or act in respect of such Land under this Act, and that the majority in number of any such co-trustees or joint tenants, and the majority in value of shares of any such co-parceners or tenants in common, notwithstanding any dissent of the minority, may assent or act under this Act as if all such co-trustees or joint tenants, co-parceners or tenants in common had concurred.

19. As to concurrence of Lessee holding for a life or lives, &c.

Provided always, and be it Enacted, That where any portion of Land proposed to be drained or improved shall, at the time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease, or agreement in writing for a lease, for a life or lives, or for a term of years whereof more than Fourteen Years shall be unexpired, the consent in writing of such person shall be necessary in order to give validity to the assent

of

of the proprietor, in respect of the Lands comprised in such grant, lease or agreement, any thing hereinbefore contained to the contrary notwithstanding.

20. Assents may be given by Persons authorized.

And be it Enacted, That the assent and consent of every proprietor or other person required to be given in writing, and all votes and acts required to be given or done for any of the purposes of this Act, may be given or done by an agent authorized by writing under the hand of such proprietor; and the power of attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be appended to every assent in writing given by any such agent; and any such power of attorney may be in the form following:

"I, of do hereby appoint of to be my attorney, for all the purposes of an Act passed in the year of the reign of Her present Majesty, intituled [Date.]

21. Notice to be given of the Places where copies of the Declaration shall be deposited.

And be it Enacted, That when a drainage or other district shall have been declared as aforesaid, the Commissioners shall deposit the declaration at some convenient place in or in the vicinity of such district, and shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published for Two successive Weeks in some newspaper usually circulated in the county in which the drainage district, or part thereof, shall be situate.

22. Clause (H.) Mode of appointing Trustees.

And be it Enacted, That after any Land shall have been declared a drainage or other district under the provisions of this Act, and such assents shall have been given as aforesaid, the Commissioners shall and they are hereby required to call a meeting of the proprietors of the Land included in such district, by notice to be inserted Once in each Week for Three successive Weeks in some one or more newspaper or newspapers usually circulated in the county in which such district or part thereof shall be situate, in order to make choice of Trustees for the execution and maintenance of the proposed works; and such Trustees so to be chosen shall not be less than Three, or more than Nine; and the number of such Trustees, within the limits aforesaid, shall in the notice for the first election of Trustees be fixed by the Commissioners; and they shall continue in office for the term of Seven Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of Seven Years, and also at the expiration of every succeeding term of Seven Years for ever thereafter, new Trustees shall

from time to time be in like manner chosen by the proprietors of the Lands included in such district, at a meeting for that purpose to be summoned Six Weeks before the expiration of the said Seven Years by the Clerk of the Commissioners, with notice as aforesaid to be holden; and the Trustees so to be elected shall be chosen by the proprietors of the greater portion in extent of such Lands, or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and the Trustees of every such drainage and other district shall form a separate Board of Trustees, and are hereby authorized to make and maintain, or cause to be made and maintained, the works set forth in the plan which shall have been approved by the Commissioners as aforesaid, and also all such cuts, drains, banks, sluices, tunnels, bridges, engines, machinery, buildings and other works in and about their district, or in or about any other Lands, as the Commissioners shall authorize to be made for the purposes of the drainage or improvement for which such district shall have been declared, and as the Trustees shall think necessary for draining or improving the same, and shall exercise all other powers in relation to the matters aforesaid or connected therewith as are given to Boards of Trustees under this Act; and in case any Trustee shall die, or refuse or become incapable to act in the execution of this Act, before the expiration of the term of Seven Years for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of Seven Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of Seven Years; and every such Trustee being so chosen shall, during the remainder of the existing term of Seven Years, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of Seven Years, and after the death, refusal or incapacity of any Trustee, and until new Trustees or a new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly-elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

23. Clause (I.) Trustees may sue or be sued by their Clerk.

And be it Enacted, That all actions, suits and other proceedings at law or in equity to be commenced or instituted for or on behalf of any Board of Trustees of any drainage or other district, or for or on behalf of any other Board of Trustees to be elected under the provisions

visions of this Act, for recovering any debts or damages, or enforcing any claims, demands or contracts, or for any other matter relating to the property or concerns of such Trustees, whether against any person being a member of the Board of Trustees or otherwise, shall and may be commenced or instituted and prosecuted in the name of the Clerk for the time being of such Board of Trustees, as the nominal plaintiff or petitioner, for and on behalf of such Board of Trustees; and that all actions, suits and proceedings at law or in equity, to be commenced or instituted by any person, whether a member of such Board of Trustees or otherwise, against such Board of Trustees, shall and may be commenced, instituted and prosecuted against the Clerk for the time being of such Board of Trustees, as the nominal defendant for and on behalf of such Board of Trustees; and that all indictments, informations and prosecutions by or on behalf of such Board of Trustees, for any stealing or embezzlement of money, securities for money, effects or other property of or belonging to such Board of Trustees, or for any fraud, forgery, crime or offence committed against or with intent to injure or defraud such Board of Trustees, shall and lawfully may be had, preferred and carried on in the name of the Clerk for the time being of such Board; and in all such indictments and informations it shall be lawful and sufficient to state the money, securities for money, effects or other property of such Board of Trustees, to be the property of the Clerk for the time being of such Board; and in all other allegations, indictments, informations or other proceedings of any kind whatsoever, in which it otherwise might have been necessary to state the names of the Trustees composing such Board of Trustees, it shall and may be lawful and sufficient to state the name of the Clerk for the time being of such Board; and the death, resignation, removal or any act of such Clerk shall not abate or prejudice any such action, suit, indictment, information, prosecution or other proceeding commenced against or by or on behalf of such Board of Trustees, but the same may be continued, prosecuted and carried on in the name of any other Clerk for the time being of such Board.

24. Clause (J.) Contract signed by Two Trustees or their Clerk, to be valid.

And be it Enacted, That all contracts and agreements to be made or entered into for or concerning the execution of any works or other matters or things to be done by or under the direction of any Board of Trustees under the authority of this Act, signed by the Trustees composing such Board, or by any Two or more of them, or by their Clerk, and by the contractor or person with whom such contracts and agreements shall be entered into, shall be good, valid and effectual to all intents and purposes.

25. Clause (K.) Trustees to hold annual Meetings, and fix the Amount to be raised for Maintenance,

And be it Enacted, That it shall be lawful for every Board of Trustees, and they are hereby authorized and required, Once in every year, to meet in some convenient place, and then to determine and fix the sum of money that shall be contributed and raised during the then ensuing

and Repairs for the Works for the ensuing year.

ensuing year, as an annual rate, for the purposes of repairing, sustaining, supporting and upholding the works by this Act authorzed, and for other the purposes hereinafter mentioned, and (having regard to and in the proportions fixed for such purpose by the said Commissioners in their declaration, or by their award, in case such award shall have been made) to assess, rate and tax the proprietors of the said Land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said several sums so rated and assessed shall be charged on the Land so drained or improved in preference to and with priority over all mortgages, charges and incumbrances thereon; and payment thereof shall be enforced in manner hereinafter mentioned; and the said Trustees shall and may meet at such other times, and as often as they shall think fit, for the execution of the powers of this Act; and at every meeting held by such Trustees, all questions shall be determined by the majority of such of the Trustees as shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act, without the concurrence of the other or others of them.

26. Clause (L.) Trustees to execute Works.

And be it Enacted, That the Trustees of any drainage or other district which shall have been declared as aforesaid, shall and may, at any time after their election, subject to the provisions hereinafter contained, commence and proceed with the works specified in the plan allowed by the Commissioners, under such control of the Commissioners as hereinafter provided, and shall obey all directions of the Commissioners in reference to such works, and all other directions of the Commissioners by this Act authorized to be given.

27. Where the weir, dam, &c. causes occasional flooding, Trustees may construct Works for the discharge of the surplus water, &c.

And be it Enacted, That in cases where, from the damming up of any river or stream by any weir, dam or other work or obstruction, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Trustees, in pursuance of any plan of drainage or improvement which shall have been approved by the Commissioners, to construct any reservoir, embankment, tunnel or back drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in such weirs, dams, works, and obstructions or the watercourses connected therewith, which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharge of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any mill or factory, or actually used or employed for any works, shall not be thereby lessened; and the level of the water at which such

amount

amount of working water-power shall be secured shall be previously inquired into and ascertained by the Commissioners; and all persons interested in such mill, factory or works, or in any Land to be drained or improved as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinbefore directed to be held, or at any meeting to be called by the Commissioners for such purpose; and the Commissioners shall hear and decide upon all such objections, and declare what such level shall be, and shall show or state the same in the plan to be approved by the said Commissioners; and the said Commissioners, in case they shall so authorize an interference with any such mill, factory, or works, shall also direct a sill or gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory, on which shall be marked, in clear and legible figures or letters, the due and proper level of water ascertained and declared as aforesaid.

28. Where the weir, dam, &c. of a Mill or Factory by flooding causes injury, &c., all necessary alterations may be made therein, if the water-power be not lessened thereby.

And be it Enacted, That if any weir, dam or other work or obstruction, connected with any mill, factory or works, shall cause the flooding of any Lands included in any drainage or other district, declared under this Act, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such Lands, or prevent their improvement, and if such flooding cannot, in the opinion of the Commissioners, be otherwise remedied or prevented, it shall be lawful for the Commissioners, so far as shall be necessary for remedying or preventing such flooding and injury, or such impediment to the improvement of such Lands as aforesaid, to direct or authorize the Trustees to alter any such dam, weir, work or obstruction, or the position or level thereof, and to raise or lower or alter any water-wheel, or any machinery immediately attached thereto, and the levels of the head and fall of any water to such mill, factory or works: Provided always, That in all cases where any such raising, lowering or alteration as aforesaid shall be effected, the amount of working water-power of such mill, factory, works or water-wheel, shall not be in anywise lessened thereby; and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising, lowering, modification and alteration respectively, or necessary or proper and sufficient for the due, convenient and permanent working of such mill, factory or works, with such full amount of working water-power, shall be made, provided, erected, fitted and placed by the Trustees in a workmanlike manner, and with proper and durable materials; and that the Trustees shall (save as hereinafter provided) from time to time and at all times uphold, maintain and keep in repair all such additional sluices, cuts, dams, gates and other works as shall be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing,

placing, and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which shall be provided or imposed in relation to any Lands in such district, under the provisions of this Act: Provided also, That nothing in this Act contained shall be deemed or construed to create or confer any right to any water in respect to any mill, factory, or works, to which the owner or occupier would not have been entitled if this Act had not been passed.

29. Where the weir, dam, &c. of any Mill or Factory causes injury, &c., the same may be taken at a valuation.

And be it Enacted, That if any mill, factory, weir, dam or other work or obstruction shall cause the flooding or prevent the draining of any Lands included in any such drainage or other district, so as thereby, in the opinion of the Commissioners, to injure such Lands or prevent their improvement, to an extent in value equivalent to or exceeding Three times the then present value of such mill, factory, weir, dam or other work or obstruction, it shall be lawful for the Commissioners to authorize or direct the Trustees, in case they shall not agree for the purchase of such mill, factory, weir, dam or other work or obstruction, to take the same, and to award compensation for the value thereof, together with Twenty Pounds for every Hundred Pounds in addition thereto, and also for the loss or injury arising to the tenant or owner thereof, in like manner and subject to the like appeal as by this Act provided in reference to any Land to be taken by the Trustees for the purpose of any works to be executed under this Act.

30. Before Mill or Factory interfered with, Declaration shall be made, containing necessary statements.

Provided always, and be it Enacted, That before the said Commissioners shall authorize the Trustees to take any such mill, factory, weir, dam, work or obstruction, and the works connected therewith as aforesaid, or to effect any such construction, erection, lowering, raising or alteration as aforesaid, the Commissioners shall, in the declaration which they are hereinbefore authorized to make, or in some supplementary declaration or order in writing, declare or state that such mill or factory, weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether such injury or prevention of improvement be or be not, to an extent in value equivalent to or exceeding Three times the value of such mill or factory, weir, dam, work or obstruction; and in case such injury or prevention of improvement be to an extent in value less than Three times such value, it shall be stated in such declaration or order, whether, in the opinion of the Commissioners, such flooding can or cannot be remedied without altering such mill, factory, weir, dam, work or obstruction, or the position or level thereof, and also the amount of the actual working water-power of such mill, factory or works, and also the level of the water at which the amount of working water-power theretofore enjoyed by such mill, factory or work can be secured; and the said Commissioners

Commissioners shall deliver or cause to be delivered to the occupier of any such mill, factory or works, or to his clerk, agent or servant superintending the same, and also to the owner, if he shall be known to the Commissioners, or to his agent, a copy or duplicate of such declaration or supplementary order or declaration as aforesaid, with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill, factory or works.

31. Commissioners to give a final Notice that all the requisites of the Act have been complied with.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the determination of a Jury, or such arbitration (if any) as hereinafter provided for, shall have been concluded, the Commissioners shall give a final notice that all the requisitions of this Act with respect to the works by such declaration or order directed or authorized have been duly complied with; and a copy of such notice, signed by the Commissioners, shall be published Once in Two successive Weeks in the London Gazette, and in some newspaper usually circulated in the county wherein such Land, or part thereof, shall be situate.

32. Publication of such Notice to be conclusive.

And be it Enacted, That the publication of any such last-mentioned notice shall be deemed final and conclusive evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the Commissioners, or under the direction or authority of the Commissioners, in pursuance of such declaration or order.

33. As to Expenses of preliminary Proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be defrayed by the Trustees accordingly.

34. Clause (M.) Trustees to appoint Officers.

And be it Enacted, That it shall be lawful for such Trustees to appoint, employ and dismiss at pleasure such engineers, surveyors, clerks, collectors, and other necessary officers, and pay and allow, out of the funds at their disposal under this Act, to such officers such yearly or other salary or wages as the said Trustees shall think fit; and all and every the person or persons employed as aforesaid shall, when required so to do by the said Trustees, render to them a true and perfect account of all monies which shall have been received and paid by them respectively by virtue of such employment, with proper vouchers for the same, and shall pay to the said Trustees, or such person as they shall

All Officers to account.

authorize to receive the same, all such sums as shall be due to the said Trustees from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Trustees; and in case any person who shall be so employed as aforesaid shall refuse or neglect to render such account and make such payment as aforesaid, or to deliver up such vouchers, books and writings to the Trustees, or to such person as they shall empower to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at petty sessions assembled, to inquire into the matter of such default in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any One or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the county, there to remain for any time not exceeding Twelve calendar Months, or until he shall have made a perfect account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Trustees, which composition and agreement the said Trustees are hereby empowered to make.

35. Reservoirs and Embankments to be made.

And be it Enacted, That it shall be lawful for the Trustees at their discretion, and for the purposes of this Act, to make reservoirs or embankments, with valves and cloughs to draw the water from or out of such reservoirs, and also cuts, aqueducts, feeders, bye-washes, spill-waters, weirs, dams, banks, drains, sluices and other works for securing a supply of superabundant or flood-waters to the said reservoirs or embankments, or for leading the waters therefrom, with over-falls for allowing the escape of water, and for the protection, security, cleansing, repair and maintenance of such reservoirs and other works, and also to provide for the superintendence and regulation of the outlet of water from every such reservoir, and all matters and works connected therewith; and it shall also be lawful for the said Trustees to make any road or way in lieu of any existing road or way which it may be necessary to divert or occupy for the purpose of making any such reservoirs, embankments or works, and to make and maintain all such other roads or ways in, through, over or upon any land near to or adjoining any of the said reservoirs, as they may find expedient, for enabling them, and their engineers, surveyors, agents, officers, workmen, servants and other persons in their employ, to have access to such reservoirs, embankments and works, or any of them, with or without cattle, carts or carriages.

36. Power to divert the surplus waters of Rivers, &c. adjoining the Reservoirs.

And be it Enacted, That it shall be lawful for the said Trustees to make such feeders or channels, with such cut-waters, drains and other works as they shall deem proper, for collecting and conducting

ducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

37. Where Reservoirs or Embankments may be made for maintaining a constant supply of water to Mills or Factories, Commissioners may make same, &c.

And be it Enacted, That for the purpose of maintaining a constant supply of water for mills, factories or works on any river, or preventing sudden floods therein, it shall be lawful for the Commissioners, with the assent of the proprietors of such mills, factories and works, the value of the working water-power of which shall be equal to Three-fourths of the value of the working water-power of the mills, factories and works which shall be then existing on such river, and affected by the maintaining of such constant supply of water, to authorize and direct the proprietors of all mills, factories and works on such river which shall be so affected by the maintaining of such constant supply of water as aforesaid, to elect Trustees under the provisions of this Act for making and maintaining reservoirs or embankments; and such Trustees shall have power to make and maintain such reservoirs or embankments as shall be allowed by the Commissioners, and to impose a rate or charge on the whole of the mills, factories and works along such river which shall be benefited thereby, and on such new mills, factories and works as shall or may be formed thereon and benefited thereby, for the purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred, such benefit to be calculated and declared by the Commissioners upon each foot or fall of water which shall appertain to each such mill, factory or work; and such Trustees shall have such and the like power and authority to recover the amount of rate or charge which shall be so fixed and determined by them as are by this Act given to Trustees of a drainage or other district for the recovery of any rate or charge for the purposes of drainage or improvement; and it shall be lawful for the Trustees to borrow money for the purpose of making such reservoirs or embankments as last aforesaid, upon the security of the taxes or rates which they are hereby empowered to impose on such mills, factories and works as aforesaid: Provided always, That it shall not be lawful for the Trustees to make any such reservoir or embankment, or to take away, injure or prejudicially affect any Land for the purpose last aforesaid, without the consent for that purpose first had and obtained in writing of all persons having any estate or interest in such Land greater than a term of Seven Years then unexpired: Provided also, That in each case, before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publi-

cation of such final notice as aforesaid, in cases where works for drainage or improvement are allowed by the Commissioners or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed, and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, shall be published in such manner as the final notice hereinbefore mentioned, which shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given for the purpose of drainage or improvement within a drainage or other district declared under this Act, shall and may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

38. In cases of Reservoirs, &c., who shall be deemed Proprietors of Mills or Factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, each person shall be deemed a proprietor of any such mill, factory or works as last aforesaid, who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any Land proposed to be drained or improved under the provisions of this Act.

39. Weirs may be altered or removed, making Compensation to the Owners thereof.

And be it Enacted, That it shall be lawful for the Trustees of any drainage or other district, and for any other Trustees elected under the provisions of this Act, with the allowance or by the direction of the Commissioners, from time to time to alter or remove any fishing weir erected in or upon any river, or any impediments whatsoever not hereinbefore expressly provided for in or on any river which shall be within their drainage or other district, or which shall affect or interfere with any works executed or proposed to be executed under the provisions of this Act, making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs or impediments, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned, in case the Trustees shall not be able to come to an agreement for the same with such proprietors or persons.

40. Power to Commissioners, in case the Mill-power be improved with Owner's consent, to rate the Mill-owner towards the expenses of the Works.

And be it Enacted, That in case the proprietor of any mill, factory or works shall consent that any dam, weir or watercourse, or other obstruction connected with such mill, factory or works, shall, for any of the purposes of this Act, be altered and rebuilt, or that such mill, factory or works shall, by any works effected under this Act, obtain any increased water-power, it shall be lawful for the Commissioners, on the application of the Trustees, to fix and determine the amount of rate or contribution which shall be paid by the proprietor of such mill,

mill, factory or works for the improvement which shall be so effected, towards the repayment of the costs and expenses of the works to be executed within the district within which such mill, factory or works shall be situate, or by which such increased water-power shall have been obtained, and the rate which shall be paid in future for such increased water-power; and the Trustees shall have such and the like powers and authorities to recover the amount of rate which shall be so fixed and determined as are given to them by this Act for the recovery of any other rates which they are hereby authorized to recover.

41. Any improvement made in the dams to Mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That in all cases in which, in the progress of the execution of any works under the provisions of this Act, any mill, factory or works shall be stopped from working, and compensation shall be awarded for any injury resulting therefrom, it shall be lawful for the Trustees or Commissioners, subject to the appeal under the provision hereinafter contained for the adjustment of claims for compensation, to set off against the same the value of any benefit resulting from any improvement which shall be effected by the execution of such works in the water-power of, or constancy of supply of water to, such mill, factory or works, or by the relief from back-water afforded to it.

42. Trustees may appoint Persons to open Floodgates, &c.

And be it Enacted, That the Trustees may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, canal, cut or drain which shall be improved or made under the provisions of this Act, appoint a proper person for the regulation, opening and closing of any floodgates, sluices, stopgates, or stops of any weir, dam or other work connected with any mill, factory or works which may have been in any respect interfered with by the said Trustees, or of any weir, dam or other work which may be under the care or control of the said Trustees, or vested in or erected by them under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close the same for the purposes aforesaid, subject nevertheless to the orders and directions of the Trustees and the general control of the Commissioners; and all expenses of maintaining the same, and the sills and gauges hereinbefore directed to be erected, and of remunerating the person employed to regulate the same, shall, save as hereinafter provided, be defrayed by the Trustees out of the monies and rates which shall be levied by them under the provisions of this Act.

43. Owners or occupiers not to be exonerated from making Repairs.

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or works, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, or to maintain any dam or sluice or floodgate, or any engine, contrivance or other

work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever, as he may or would have been respectively subject or liable to if this Act had not been made.

44. Power to execute the Works.

And be it Enacted, That it shall be lawful for any Trustees elected under this Act to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, and to make and execute all such works as shall be described in the maps or plans allowed or approved by the Commissioners for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any Land included in the said maps, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, ditch or drain, brook, pool or watercourse running through such Land, and in and upon such Land to make, open and cut any new watercourse, side cut, ditch or drain, and to alter or remove any bank, sluice, flood-gate, clough, patch, ditch or drain or tunnel, and to make or erect any wharf, landing-place, bank, sluice, flood-gate or other building, clough, patch, ditch or drain, tunnel or other works necessary for drainage, embankment, warping and irrigation, and for supply of water for the use of cattle, and to dam, bar and stop up, with any weir or dam, any river or watercourse, and also to make upon such Land any embankment against the sea, or against any river or watercourse, and to put and place on such Land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such Land, or for the better conveying the waters from the said Land into the sea, or into any river or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river or watercourse, for the purpose of supplying water to any mill, factory or works, or to any site proper for the erection of a mill, factory or works thereon, or of keeping back a sufficiency of water for the use of cattle, or for warping or irrigation, and also to stop up or divert any road or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, watercourse or side cut now existing or to be made as aforesaid, and also to do all such things, and erect and maintain such steam and other engines, and machinery, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

45. Commissioners may enter Lands within the district, and dig for

And be it Enacted, That it shall be lawful for the said Trustees or any engineer, workman or other person authorized by them, after Three Days' previous notice, to enter into and to search for, dig, take and

and carry away materials out of any Land lying within their drainage or other district, for the purpose of executing or repairing any works under the provisions of this Act, making compensation for the surface damage done to the proprietors, lessees or occupiers of such Lands, according to their respective interests therein; and in case of dispute, such compensation shall be settled, on a summons to be issued for that purpose by any Two or more Justices of the Peace for the county, riding or division in which such Land is situate, at petty sessions: Provided always, That in all cases where materials shall be taken from an open quarry or pit bonâ fide demised to any person, with liberty to raise, sell and dispose of the materials therein, the value of such materials shall be paid for by the Trustees, and the amount owing, in the event of difference as to the same, shall be settled on summons by any Two or more Justices as aforesaid.

materials, on making Compensation.

46. Commissioners to fill up Holes and Pits not found useful, and fence off those that may be useful.

And be it Enacted, That if, by reason of the searching for, digging or getting any materials as aforesaid, any pit or hole be made in any common or other Land wherein such materials shall be found, the Trustees shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be used, and shall, within Six Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the Trustees shall cause the same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

47. Power to Commissioners to make Drains through Land not proposed to be drained, Compensation being made for Damage done.

And be it Enacted, That if it shall be necessary for improving the outfall of any Land, or for the purpose of carrying off water from any Land to be drained or improved, or from any new cut or drain to be made, scoured out or enlarged, under the authority of this Act, to scour out, widen or enlarge any river or drain, not included in the maps or plans approved or allowed by the Commissioners as aforesaid, it shall be lawful for the Trustees, with the approbation of the Commissioners, to enter upon Land not included in such maps or plans, and to scour out, widen, straighten or enlarge such river or drain, due compensation being made by the Trustees for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained, subject to the provisions hereinafter contained for the entry upon any lands under the jurisdiction of any Board of Trustees elected under this Act, or of any Commissioners of Sewers, or any Trustees or Commissioners appointed under any local or private Act of Parliament for sewers, drainage, warping, irrigation or embankment.

48. Commissioners authorized to enforce the cleansing of Drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse or river lying below or between or in any Lands declared to be a drainage or other district, by virtue of this Act, or the outfall thereof, the Trustees of such drainage or other district or their Surveyor may require such person to scour out and cleanse the same; and in case such person shall neglect, within Fourteen Days after notice in writing given to him, or to the tenant of the Land in respect of which such liability exists, or left at the usual abode of such person or tenant, to cleanse any such drain, sewer, watercourse or river, to the full and proper width and depth, the Trustees may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of such tenant, together with the charges attending such distress and sale.

49. If Cuts be made which shall injure Roads or Bridges, other Roadways and Bridges to be made.

And be it Enacted, That no turnpike-road shall be altered or diverted without such consent, and no public road or way shall be stopped up, diverted or altered under the authority of this Act without such notice as hereinafter provided; and if by any cut, drain or other works made under the authority of this Act, any private or occupation road or way shall be disturbed or interrupted, or any land intersected in such manner as to render the future occupation thereof less convenient or profitable, the Trustees shall, if the same shall appear to the Commissioners to be necessary, cause other convenient roads or ways to be made, and any bridges which may be required to be properly built, for the use of the persons entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges, out of the monies to be received by virtue of this Act: Provided always, That it shall be lawful for the Trustees, if they shall think fit, to contract and agree with the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties or any of them, and to pay the sum contracted and agreed to be paid out of the monies to be received by virtue of this Act: Provided always, That in case the Trustees shall be able to agree with the persons interested in such roads, ways or bridges for compensation in respect of the damage occasioned in relation to the same, it shall be lawful for them so to do.

50. Where the existing Bridges, Culverts or Archways are insufficient for the dis-

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public road shall, in the opinion of the Trustees of any drainage or other district, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause

cause or tend to cause the flooding of or other injury to any of the Lands included in their district, it shall be lawful for the Trustees to have the same altered, enlarged or reconstructed in such manner as to them shall appear sufficient, and to defray the expense by a special rate on the proprietors of the Land benefited by such alteration, enlargement or reconstruction, and thenceforth such bridges, culverts, archways and roads shall be repaired and maintained by such parties as were theretofore liable to repair and maintain the same.

charge of Water under a public Road, same may be reconstructed by the Trustees.

51. Commissioners to provide in Dams and Weirs for the migration of Salmon, Trout and Eels.

And be it Enacted, That in the construction, alteration or remodelling of any dams, weirs or other works in the bed of any river to be altered by any Trustees under the powers of this Act, it shall and may be lawful for such Trustees, under the directions or by the allowance of the Commissioners, so to construct, alter or remodel the same as to provide sufficient means in some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

52. Works not to injure any ornamental Water, nor the Supply of Water to Towns, nor to encroach upon Parks, &c.

And be it Enacted, That nothing herein contained shall authorize or enable the Trustees to interfere with ornamental water in any private pleasure-ground or park, without the previous consent in writing of the owner and occupier thereof, or of their respective guardian or committee in case of infancy or lunacy; nor to curtail or cut off the supply of water to any town without previously making adequate provision in lieu thereof; nor to encroach, by their works or otherwise, upon any park, garden or pleasure-ground, without the consent in writing of the owner and occupier thereof, any direction or allowance of the Commissioners notwithstanding.

53. Trustees may purchase Land for the purposes of the Act.

And be it Enacted, That it shall be lawful for any Trustees elected under this Act to purchase any Lands which the Commissioners shall direct and allow them to purchase for accomplishing any of the purposes of this Act, for which they shall have been appointted Trustees, making such reasonable satisfaction and recompense to the person entitled to or interested in such Land as shall be settled and ascertained in manner hereinafter mentioned.

54. When Lands cut through shall be less than an Acre in quantity, or less than Fifteen Yards wide, Trustees to purchase the whole, if required.

And be it Enacted, That if in the execution of any of the works authorized by this Act any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property, so that there shall be left on each or either side of the said works or any of them less than One statute Acre in quantity, or less than Fifteen Yards in breadth, then and in every such case the Trustees shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided) take and purchase such piece or parcel or pieces or parcels so to be left as aforesaid of such

field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

55. Notices to be given to Proprietors of Land required for or likely to be affected by the proposed Works, requiring them to furnish to Commissioners their claims.

And be it Enacted, That the Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors and occupiers, or reputed proprietors and occupiers, where the same may be known to the Commissioners, of and in all such Land as may be required to be taken for or be liable to be affected by the works proposed to be made under this Act, requiring such proprietors, occupiers and other persons to prefer their respective claims before such Commissioners for the value of such Land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which the Commissioners or an Assistant Commissioner shall hold a meeting for inquiring into all such claims, and shall also, Thirty Days at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in Three successive publications of some newspaper circulating in the county or counties in which such Land as aforesaid shall be situated.

56. Corporations, Trustees, and other Persons empowered to sell and convey, &c.

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feoffee in trust for charitable or other purposes, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, feme covert, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant in tail, although restrained from barring his estate tail, and to and for any tenant for life, or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any Land required to be purchased for any of the purposes of this Act, or injuriously affected by any such works as aforesaid, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue of such ward, wife or person respectively, and to and for any feme covert entitled in her own right to any such Land, or to right of dower or other interest therein, on behalf not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife,

person

person or feme covert respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and feme covert, on behalf of the person or persons on behalf of whom such ward, wife, person or feme covert respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same Land, and to and for every other person whomsoever who is or shall be seised or possessed of or interested in any such Land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the Trustees of any drainage or other district, or the Trustees elected for any other purpose under this Act, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange, as shall be determined by the Commissioners, and also to execute any conveyance or enter into any contract with respect to the premises which the Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable in respect thereof by the Trustees of any drainage or other district, or elected for any other purpose as aforesaid, shall be paid by such Trustees out of the monies to be raised by them, by virtue of this Act, as aforesaid.

57. Provisions as to Lands of the Crown and Duchy of Cornwall.

And be it Enacted, That as to any Land or interest in Land which may be vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests and Land Revenue for the time being, or in case such Land shall be so vested in Her Majesty in right of Her Duchy of Lancaster, the Chancellor of the Duchy of Lancaster for the time being, and as to any Land or interest in Land vested in the Duke of Cornwall, the Chancellor of the Duchy of Cornwall for the time being, shall respectively have all the powers of contracting, agreeing, selling, conveying and assuring by this Act given to persons seised or possessed of or interested in Land, and for all assents, consents and other the purposes of this Act, shall be deemed proprietors of such respective Lands and interests.

58. Form of Conveyance.

And be it Enacted, That all conveyances which shall be executed to such Trustees of any Land which shall be required by them for any of the purposes of this Act, may be in the following Form, or as near thereto as the number of parties and the nature of the case will admit; namely,

"I, of in consideration of the sum of paid to [or, paid into the Bank of England, as the case may be,] by the

the Trustees of the drainage district, or the Trustees for [set forth the purpose for which they are elected, according to the Declaration of the Commissioners] appointed under an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], do hereby grant and release to the said Trustees all [describing the premises], together with all ways, rights and appurtenances thereunto belonging, and all estates, rights and interests in the same and every part thereof; to hold to the said Trustees and their successors for ever, according to the true intent and meaning of said Act. In witness whereof I have hereunto set my hand and seal this day of in the year of our Lord One thousand eight hundred and ."

59. Satisfaction to be made, and may be accepted.

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such Land as aforesaid, and any other owner of any such Land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant for a year, or from year to year, or at will, or other occupier of any Land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the Trustees elected under this Act, who shall be authorized to take the Land so to be sold and conveyed, or who shall have caused such injury or damage; and in case such Trustees and the said party interested in such Land, or sustaining such injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

60. Commissioners empowered to assess the value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such Land as aforesaid shall neglect or refuse to treat, or shall not agree with the Trustees elected under this Act, or, by reason of absence or disability, cannot agree, or cannot be found or known, or shall not prove a clear title to the Land, or to the estate or interest which he shall claim therein, to the satisfaction of the Trustees elected under this Act, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction or recompense for the same as shall be offered

offered by the Trustees elected under this Act, for the space of Thirty Days, after notice in writing given to the principal officer or officers of such corporation, or to such Trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such Land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, then and in every such case the Commissioners are hereby empowered, upon the request of the said Trustees, and at a time and place to be specified by a notice to be given or left as last aforesaid, to inquire and examine, and assess and award the sum of money to be paid for the purchase of such Land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such Land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the Land named or described in such award, or any Land held under the same lease or agreement in con junction therewith; and the Commissioners shall award such purchase-money or recompense so to be assessed; and the Commissioners shall and may in such award name or describe the persons (if known to the Commissioners) to whom respectively the sum mentioned therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than One, and the Land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the Land named and described in such award, or any Land held under the same lease or agreement in conjunction therewith; and the Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, by themselves or an Assistant Commissioner, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly; and such award shall be conclusive and binding upon The Queen s most Excellent Majesty, and on the Trustees elected under this Act, and on all other persons interested, except in the case and subject to the provisions hereinafter contained.

61. Clause (N.) Differences as to Damages.

And be it Enacted, That where any person dissatisfied with the compensation awarded in respect of Land purchased, taken or used for the purposes of this Act, or with such other matter in the award of the Commissioners as hereinbefore provided for, shall require that the matter in difference be determined by the verdict of a jury, and

moreover that in every other case not hereinbefore provided for, where any person shall think himself aggrieved by any thing done by virtue of this Act, and shall, within One calendar Month after the cause of complaint shall have arisen, give notice to the Commissioners and also to the Trustees or other persons, if any, against whom such cause of complaint shall be alleged, and shall require that the matter in dispute be determined by a jury, then and in every such case the Commissioners shall and they are hereby required from time to time to issue a warrant under their hands and seal to the Sheriff of the county in which the Lands in question shall be situate, or the alleged cause of complaint shall arise; or in case such Sheriff or his Under-Sheriff shall be in any way interested in the matter in question, then to any of the Coroners of such county not interested as aforesaid, or if all the Coroners shall be so interested, then to some person then living in the county, and free from personal disability, who shall have filled the office of Sheriff or Coroner in the said county, and not interested as aforesaid (a person having more recently served either office being always preferred), commanding such Sheriff or Coroner or other person to impannel, summon and return, and the said Sheriff, Coroner or other person is hereby accordingly empowered and required to impannel, summon and return a Jury of at least Eighteen sufficient and indifferent men, qualified according to the laws of this realm to be returned for trials of issues in Her Majesty's Courts of Record at Westminster, and the persons so to be impanneled, summoned and returned are hereby required to appear before the said Sheriff, Under-Sheriff, Coroner or other person, at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged, and out of such persons so to be impanneled, summoned and returned, a Jury of Twelve men shall be drawn by the said Sheriff, Under-Sheriff, or Coroner or other person, or by some person to be by them respectively appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such Sheriff, Under-Sheriff, Coroner or other person shall return other honest and indifferent men of the standers by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid) to make up the said Jury to the number of Twelve, and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Sheriff, Under-Sheriff, Coroner or other person is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matters in question, and may authorize or order the said Jury, or any Six or more of them, to view the place or matter in controversy; and such

Jury

Jury shall, upon their oaths, or, being Quakers, upon their affirmations (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Sheriff, Under-Sheriff, Coroner or other person is hereby empowered and required to administer, inquire of, assess and give a verdict for the sum of money to be paid by way of purchase or satisfaction, or the sum of money (if any) which shall be found payable in respect of damage done to the person so considering himself aggrieved as aforesaid; and the said Sheriff, Under-Sheriff, Coroner or other person shall accordingly give judgment for such purchase or other money as shall be assessed by such Jury, which said verdict, and the judgment thereon to be pronounced as aforesaid, shall be binding and conclusive to all intents and purposes upon all corporations and persons whatsoever.

62. CLAUSE (O.) Verdicts to be recorded.

And be it further Enacted, That the said verdicts and judgments, being first signed by the said Sheriff, Under-Sheriff, Coroner or other person presiding at the taking of such verdict and pronouncing of such judgment respectively, shall be kept by the Clerk of the Peace for the county or place in which the matter of dispute shall have arisen among the records, and shall be deemed and taken to be records to all intents and purposes; and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of One Shilling, and also to take or make copies thereof, paying for every copy after the rate of Sixpence for every One hundred Words.

63. CLAUSE (P.) Penalties on Sheriffs, &c., making default.

And be it further Enacted, That if any such Sheriff or his Under-Sheriff, or any Coroner or other person hereinbefore authorized and directed to act in the stead of such Sheriff, shall make default in the premises, he shall for every such offence forfeit and pay the sum of Fifty Pounds; and if any person so summoned and returned upon any such jury as aforesaid shall not appear, or, appearing, shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act, or if any person so summoned to give evidence as aforesaid shall not appear, on being paid or tendered a reasonable sum for his costs and expenses, or, appearing, shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse (to be judged of and determined by the said Sheriff, Under-Sheriff, Coroner or other person), shall forfeit and pay for every such offence, for the benefit of the party for whom or on whose account such jury or witness shall have been summoned, any sum not exceeding Ten Pounds;

Pounds; all which said penalties and forfeitures shall and may be levied by virtue of a warrant under the hand and seal of any Justice of the Peace for the county or place in which the said lands shall be situate, or the said inquisition shall be held, by distress and sale of the goods and chattels of the person so offending, rendering to him, on demand, the overplus of the money thereby produced (if any), after such penalty, and the charges and expenses of such distress and sale shall have been deducted.

64. CLAUSE (Q.) Juries to be subject to regulations of Juries as in Courts at Westminster.

And be it further Enacted, That every such jury and juryman as aforesaid shall also be subject to the same regulations, pains and penalties, as if such jury and juryman had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster; and all persons who, in any examination to be taken by virtue of this Act upon their oath, or, being Quakers, upon their affirmation, shall wilfully and corruptly give false evidence before any such Jury, Sheriff, Under-Sheriff, Coroner or other person, or before any Justice of the Peace, acting as such in the execution of this Act, shall and may be prosecuted for the same, and upon conviction thereof shall be subject to the pains and penalties to which persons guilty of wilful or corrupt Perjury shall or may by law be subject.

65. CLAUSE (R.) Costs of the Jury.

And be it further Enacted, That in every case in which the verdict of a jury shall be given for the same or for a greater sum than shall have been previously ordered to be paid by the Commissioners, or offered or tendered to be paid for the purchase of any lands, to be used or taken for the purposes of this Act, or as compensation or satisfaction for any damage or loss which may have happened or arisen in the execution of any of the powers hereby granted, all the costs of summoning such Jury and the expenses of witnesses shall be defrayed by the Trustees; and such costs and expenses shall be settled and determined by the said Sheriff, Under-Sheriff, Coroner or other person as aforesaid; and in case such costs and expenses shall not be paid to the party entitled to receive the same, within Thirty Days after the same shall have been demanded, then the same shall and may be levied and recovered by distress and sale of any goods or chattels of the said Trustees, under a warrant, to be issued for that purpose, by any Justice of the Peace for the county or place where such inquisition shall be held not interested in the matter in question, which warrant such Justice is hereby authorized to issue under his hand and seal, on application made to him for that purpose, by any party entitled to receive such costs and expenses; but if the verdict of the jury shall be given for a less sum than shall have been ordered to be paid by the Commissioners, or offered or tendered to be paid as aforesaid, the said costs and expenses shall be defrayed by the party demanding the jury

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in manner hereinbefore mentioned, and shall and may be deducted out of the money adjudged to be paid to such party, as so much money advanced to and for his use; and the payment or tender of the remainder of the money so adjudged shall be deemed and taken, to all intents and purposes, to be a good payment or tender in satisfaction of the whole thereof.

66. Clause (S.) Security for Costs.

And be it further Enacted, That all parties who shall require a Jury to be summoned as aforesaid, shall, at their own costs, before the said Commissioners shall be obliged to issue their warrant for the summoning of such Jury, enter into a bond with Two sufficient sureties to the Commissioners, in a penalty of One hundred Pounds, to prosecute their complaint, and to bear and pay their proportion of the costs and expenses of summoning and returning such Jury and taking such verdict, and of the summoning and attendance of witnesses, in case any part of such costs and expenses shall fall upon them.

67. Application of Compensation-money when amounting to or exceeding 200 *l.*

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any Land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any Land which shall belong to any corporation, not legally and equitably entitled to sell and dispose of such Land otherwise than by virtue of this Act, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any feme covert, infant, idiot or lunatic, or to a tenant for life, a tenant in tail restrained from barring his estate tail, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same Land, otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there ex parte the Commissioners, and without fee or reward; and shall, when so paid in, there remain until the same shall, by order of the said Court, made upon a Petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said Land, be applied in or towards the discharge of any such debt or other incumbrance affecting the same Land, or any other Land or Property standing settled therewith to the same or the like uses, trusts, intents and purposes as the said Court of Chancery shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall, upon the like application, in a summary way, be laid out, by order of the said Court, in the purchase of other Land, which shall be conveyed, limited and settled to, for and upon such and the like

uses, trusts, intents and purposes, and in the same manner as the Land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant-General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of England; and in the meantime, and until the said stocks, funds or annuities shall be sold by order of the said Court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such Land so to be purchased, conveyed and settled.

68. When less than 200 *l.* and amounting to or exceeding 20 *l.*

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any Land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of England in the name and with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid, at the like option, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the Land so to be purchased, taken or used, or damaged or injured as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of England, without being required to obtain any order of the Court of Chancery touching the application thereof.

69. When less than 20 *l.*

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid as hereinbefore mentioned shall be less than Twenty Pounds, then and in every such case the same shall be paid to the

the person who would for the time being have been entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

70. The Court may order reasonable expenses of Purchases to be paid by the Trustees.

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any Land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable by any Trustees elected under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England, to be applied in the purchase of other Land, to be settled to the like uses, in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by such Trustees out of the monies to be received by virtue of this Act; and such Trustees shall from time to time pay such sums of money for such purposes as the said Court shall direct.

71. Premises to vest in the Trustees, upon payment into Bank of the Money agreed upon or assessed, when Conveyances cannot be obtained.

And be it Enacted, That if any corporation or person seised or possessed of or having any estate or interest in any such Land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such Land to the satisfaction of the Trustees or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the Trustees to pay such sum of money as shall have been contracted and agreed, or shall have been awarded in manner aforesaid to be paid for the purchase or for the value of such Land or of any interest therein into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to be placed to his account to the credit of the party interested in the said Land (describing such Land), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation, or person interested in such sum of money or any part thereof, by motion or petition, in a summary way may order the same to be laid out and invested in the public funds, and to order distribution thereof, and order payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of England who shall receive such sum of money, is hereby required to give a receipt for such sum of money; and upon payment

ment of such sum of money into the Bank as lastly hereinbefore is mentioned, the Land for the purchase or for the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the interest therein, for which such money shall have been contracted and agreed or awarded to be paid as aforesaid, shall vest in the Trustees, and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such Land, or having such interest therein as the case may be, had been competent to convey and had actually conveyed the same.

72. In case of questionable Title of Persons in Possession.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of England in the name and with the privity of the Accountant-General of the said Court of Chancery in pursuance of this Act, for the purchase of any Land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government Securities, the person who shall have been in possession of such Land at the time of such purchase, and all persons claiming under such person or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such Land, until the contrary shall be shown to the satisfaction of the said Court; and the dividends or interest of the Stock, Funds and Annuities to be purchased with such money, and also the capital of such Stock, Funds and Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such Land or to some estate therein.

73. Estate of Mortgagees to vest in Trustees on payment of principal and interest;

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any Land taken or purchased under this Act, then, on payment of the principal and interest due thereon, or in case a part only of any Land subject to such charge or mortgage be so taken or purchased, then a proportionate share of such principal and interest (to be ascertained, in case of dispute or non-acceptance in the manner hereinbefore provided for ascertaining the value of Land taken or purchased for the purposes of this Act) to such mortgagee or person entitled thereto, or into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to the credit of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, in the Land or the portion of Land so taken or purchased shall vest in the Trustees, and they shall be deemed to be

be in the actual possession thereof, free from the same mortgage or charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any Land purchased or taken under this Act, shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then, upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged on the Land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him in the said Land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Trustees, and they shall be deemed to be in the actual possession of the said Lands, to all intents and purposes whatsoever, freed from such mortgage or charge as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same Land or portion of Land.

or if such principal and interest exceed the value of the Property, then on payment of the value.

74. Lien shall remain on Premises not conveyed in proportions.

And be it Enacted, That when any rent, or any such charge, incumbrance or lien as aforesaid, shall also be payable out of, or extend over and be a charge, incumbrance or lien on any Lands, other than those which shall be taken or injured by or conveyed to or vested in the said Trustees, then and in such case neither this Act nor any conveyance so made as aforesaid shall in any respect discharge, affect or alter the validity or effect of such charge, rent, incumbrance or lien, or of the residue remaining unpaid or unsatisfied thereof, so far as relates to such other lands, tenements or hereditaments, but that as to all such the same and all conditions and collateral remedies for recovering payment thereof shall respectively continue, be good, valid and subsisting, subject nevertheless to such reduction of rent (if any) as may be made in respect of such Lands under the provisions herein contained.

75. Power to enter and take possession of Land, &c. on payment or tender of Purchase-money;

And be it Enacted, That upon payment into the Bank of England as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or awarded or adjudged in manner aforesaid, for the purchase of any Land, or as a compensation for damages as herein mentioned, to the proprietor of such Land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the Trustees, or their agents, workmen or servants, immediately to enter upon and use such Land.

76. Trustees may forego the taking of any Land on serving a notice, within Six Months from the time of contract or adjudication, that the same will not be required.

Provided always, and be it Enacted, That if it shall seem expedient to the Trustees, at any time or times within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act, not to take or injure the whole or any part of any Land or other matters or things named or described in such adjudication or contract, it shall be lawful for the Trustees to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contract to be interested in such Land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the Trustees), shall be void; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall, on the application of the Trustees or of any persons interested in the Land, fix and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and if necessary, apportion the residue among the persons entitled thereto; and the said Commissioners shall amend such adjudication or contract accordingly; and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal as any other adjudication or contract under this Act: Provided always, That in all cases where the Trustees shall serve notice that it is not intended to take or injure the whole or any part of such Land, the person or persons interested in such Land, and incurring any loss or expense in consequence of the Trustees having previously required the same, shall be entitled to compensation for such loss and expense; and in case the amount thereof cannot be agreed upon, the same shall be ascertained in the same manner as hereinbefore provided in the case of recompense or satisfaction to be made for damage sustained on account of the execution of this Act.

Proviso.

77. Premises to vest in Trustees in perpetual succession.

And be it Enacted, That all such Lands and hereditaments as shall be conveyed to or vested in the Trustees of any drainage or other district, or to or in any Trustees who shall be elected for any other purpose under the provisions of this Act, shall vest in the Trustees for the time being of such drainage or other district, or in such other Trustees as aforesaid for the time being, as the case may be; and upon the election of any new Trustee or Trustees, such Lands and hereditaments shall, upon such election, vest in such new Trustee or Trustees jointly with the continuing Trustee or Trustees, or in case there shall be no continuing Trustee, in the new Trustees only, without any conveyance for that purpose.

And

78. If the Trustees make any new site for a Mill or Factory, the same shall vest in them for the purposes of this Act.

And be it Enacted, That whenever in executing any of the works which they are authorized to execute under this Act, the Trustees shall be enabled to make any new site for a mill or factory, such new site may be made by the Trustees, if they shall think fit; and the same, with the water-power thereof, shall be absolutely vested in the Trustees and their successors for ever, in trust, for the purposes of this Act, and in order that the same may be sold: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory.

79. Trustees to sell Lands and Mills, making first offers to the Proprietors of the estate.

And be it Enacted, That the Trustees of any drainage or other district, and such other Trustees as may be elected under this Act, shall from time to time sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, water-courses and mill-sites which shall become vested in them respectively under any of the provisions aforesaid, and which shall not be required to be retained for any of the purposes of this Act; and the produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed by such respective Trustees: Provided always, That such Trustees, before they shall sell or dispose of any of the premises aforesaid, shall give notice by advertisement, published for Two successive weeks in some newspaper circulated in the county where such premises shall be situate, of their intention to sell the same, and shall offer the same, in the first place, to the proprietor of the estate to which the same originally belonged, and then to the person whose estate shall adjoin thereto, or to such one of the persons whose estates shall adjoin thereto, as in case of difference among themselves the Commissioners shall direct, and such persons respectively shall be entitled to a preference or pre-emption, in case such persons respectively shall give notice to the Trustees of their desire to purchase the same within One calendar Month after the last publication of such advertisement; and such premises shall not be sold to any other person at such price as any person so entitled to a preference shall be willing to give, or at any lower price; and if each such person shall refuse to purchase the same, or shall not give notice of his desire within the time aforesaid, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in the said Court, that such notice by advertisement was given by or on behalf of the said Trustees, and that no person entitled to preference duly availed himself of his right of preference or pre-emption, such affidavit shall in all Courts whatsoever be sufficient evidence and proof that such preference or pre-emption was waived.

80. Application of Monies received by the Trustees.

And be it Enacted, That all sums received by any Trustees elected under the provisions of this Act shall be paid into the Bank of England, to the credit of the said Trustees, and shall be applied towards the expenses of the several works to be executed under this Act, or towards the re-payment of any loan or loans which shall have been or may be made to such Trustees for the execution of the said works under the power in that behalf hereinafter contained, and of all other expenses payable by such Trustees under the provisions of this Act.

81. Trustees may borrow Money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the Trustees of any drainage or other district, and for any other Trustees elected under this Act, from time to time as occasion shall require, with the approbation of the Commissioners, to borrow and take up at interest, for any term not exceeding Twenty Years, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them respectively in the execution of any works for the drainage or improvement of any Land, or of any other works under the authority of this Act; and the repayment of such sum or sums of money, with interest, at a rate not exceeding Five Pounds per centum per annum, shall be secured to the party lending the same upon the monies accruing to the Trustees under the provisions of this Act: Provided, That the sum so borrowed shall be repaid by yearly equal instalments within the term aforesaid.

82. Trustees to grant Certificates to Lenders for principal and interest.

And be it Enacted, That it shall and may be lawful for such Trustees from time to time to grant a security in the form of a certificate under the hands and seals of such Trustees or any Three of them, to every person who shall so advance any sum of money as aforesaid, setting forth the sum for which the several certificates collectively are to be issued, the amount of the sum for which each such certificate is issued, the date of such advance, and the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment or by instalments, and that every such certificate shall be duly stamped as a mortgage, and shall be stamped with the seal of the Commissioners, in testimony of their approbation thereof, and may be made in the following words, or as near thereto as the circumstances of the case will admit:

Form of Certificate.

"BY virtue of an Act passed in the sixth year of the reign of Her Majesty Queen VICTORIA [here insert the title of this Act], we, the undersigned, being Trustees of the drainage district [or, being Trustees for (set forth the purposes for which they were elected according to the declaration of the Commissioners)], with the approbation

approbation of the Drainage Commissioners for England and Wales, testified by their seal hereunto affixed, in consideration of the sum of Pounds of lawful money of Great Britain to us lent and paid by do hereby certify, that the monies to become payable to us, under the said Act, are hereby charged with the repayment of the said sum of Pounds, being the whole [or part, as the case may be], of the sum of Pounds required to be borrowed for the purpose aforesaid [here insert the period when the money is payable, in one payment, or by instalments, as the case may be], together with interest thereon [or, if the money be payable by instalments, with interest on such part of the said principal money as shall remain unpaid from time to time], at and after the rate of Pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof we have hereunto set our hands and seals the day of ."

And the monies mentioned in each such certificate, with the interest thereon, shall be repayable and paid by the Trustees out of the monies which shall come to their hands under this Act, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Trustees or any of them who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

83. Loans may be transferred.

And be it Enacted, That every person who shall be entitled to the money secured by any such certificate may transfer his right and interest to the said principal sum and interest money thereby secured to any person by writing, duly stamped; and every such transfer may be in the following words, or words to the like effect:

Form of Transfer.

" I [or, We], A. B. of in consideration of the sum of to me this day paid by C. D. of do hereby transfer

transfer a certain certificate of charge made by the Trustees [describing them], under an Act passed in the year of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], to bearing date the day of for securing the sum of and interest, and all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said C. D., his, her or their executors, administrators, successors or assigns [as the case may be]. Given under my hand and seal this day of ".

Which transfer shall be produced and certified to the Clerk for the time being of the Trustees before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such Clerk shall make an entry in the books of the said Trustees of the particulars of every such transfer, and sign the same.

84. Power to borrow Money at a lower rate of interest.

Provided always, and be it Enacted, That in case any Trustees from whom money shall be owing on such certificates, can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for such Trustees to borrow and take up, with the approbation of the Commissioners, from time to time, in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the repayment of such new loan shall be secured in like manner upon the monies accruing to such Trustees under the provisions of this Act; and such Trustees shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

85. Money may be borrowed for the purposes of this Act from Commissioners of Public Works.

And be it Enacted, That it shall and may be lawful for the Commissioners acting in the execution of an Act passed in the fifth year of the reign of Her present Majesty, intituled, "An Act to authorize the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like purposes," and of the Acts therein recited, or any Act or Acts for amending the same respectively; and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend and advance any sum of money which may be necessary for the purposes of this Act upon the credit of such security as the Trustees under this Act are empowered to give as aforesaid, provided that no advance of money shall be made by the

the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by such Commissioners shall be repaid from and out of the monies accruing under this Act to the Trustees borrowing the same, within such period, either by One payment or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of the Treasury shall direct.

86. Accounts to be kept.

And be it Enacted, That every Board of Trustees under this Act shall cause books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid and expended about any drainage or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed and paid; which books shall, at all reasonable times, on giving Three clear Days' notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or other work to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

87. Trustees to account yearly.

And be it Enacted, That Once at least in every year every Board of Trustees shall prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the Clerk of such Board of Trustees, or otherwise as the Commissioners shall direct, and a copy of such account, signed by the Trustees, or Two or more of them, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection at all reasonable times, on payment of a fee of One Shilling, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Trustees and Clerk of the Peace shall furnish copies of or extracts from any such account or statements to any persons requiring the same, upon payment of the costs of making such copies or extracts; and every such Board of Trustees shall from time to time transmit copies or extracts from such account to the Commissioners as the Commissioners shall direct.

88. Commissioners to make an Award upon completion of any of the Works.

And be it Enacted, That as soon as conveniently may be after any works for the drainage or improvement of any Land under this Act, or any other works by this Act authorized to be executed, shall have been completed by the Board of Trustees for that purpose authorized under this Act, the Commissioners shall cause such works to be

inspected and examined, and shall draw up, or cause to be drawn up, an award or instrument in writing, which shall describe the Land drained or improved as aforesaid, and the works which shall have been so completed; and such award shall also specify the several quantities belonging to the proprietors or reputed proprietors respectively of such Land so drained or improved as aforesaid; and such award shall also specify the amount of the sums which shall have been expended, or for which the Board of Trustees shall have become liable, in and about the works which shall have been so executed for drainage, or improvement, and all expenses incident thereto (including the interest of all borrowed monies, except such interest as shall have been previously paid out of the rates and charges made by the Trustees), and the proportions, except as aforesaid, of such sums payable in respect of the several parcels or portions of the Land drained or improved, towards payment of the total amount of the costs, charges and expenses of such drainage or improvement, or incidental thereto, as principal sums charged on such several parcels or portions of land, and whether the same shall be paid in one sum or by instalments, and if by instalments, then the said award shall also specify the several instalments, and the manner by and in which and by whom such proportions shall be paid, regard being had to the degree of benefit conferred, and the circumstances of each particular case; but so that by such instalments all such sums shall be payable within a term not exceeding Twenty Years from the date of such award; and in the case where any water-power shall be improved by the making of embankments or reservoirs, or any works so completed under the provisions hereinbefore contained, or executed with the consent of the proprietors of mills, factories or works as aforesaid, the said award shall also specify the Lands, mills, factories or works liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which such Lands, mills, factories or works shall be respectively charged, and whether the same shall be repaid in one sum or by instalments as aforesaid; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the Lands and premises so improved as aforesaid, and the proprietors of such Lands and premises in respect thereof respectively for the time being, shall in future be charged by way of annual rate towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs,

weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of such award; and all monies payable under every such award shall be payable to the Board of Trustees authorized to execute and maintain such works as aforesaid, to be by them applied according to the provisions of this Act.

89. Clause (T.) Money may be raised before Award.

Provided always, and be it Enacted, That in case previously to the award it shall appear to the Commissioners that any sums of money ought to be raised on the Land included in any drainage or other district, or on any other Land, subject to be charged or rated under this Act, either by way of charge of principal sums or of annual rates, it shall be lawful for the Commissioners to authorize and empower the Trustees to raise the same accordingly; and in case such sum shall be authorized to be raised by way of charge of principal sums, then the same shall be raised in the manner by this Act directed concerning the principal sums to be charged under the award of the Commissioners; and in case the same shall be authorized to be raised by way of annual rate, the same shall be raised and paid in like manner as by this Act directed concerning the annual rates raisable by the Trustees; and such principal sums and such annual rates respectively shall be charged and levied upon the Land included in such drainage or other district, or other land charged therewith, according to the proportions specified in the declaration of the Commissioners: Provided always, That in case, upon the application of any persons interested in Lands included in such drainage or other district, or other Land liable to be charged under this Act previously to the award of the Commissioners, it shall appear to the Commissioners that the proportions of liability specified in the declaration of the Commissioners, or in any previous order of the Commissioners, ought to be altered or varied, then and in every such case it shall be lawful for the Commissioners, by order under the seal of the said Commissioners, to alter and vary the same accordingly; and moreover, that in case, when such award shall be made by the Commissioners as hereinbefore directed, it shall appear that the portions already paid, in respect of any parcel or portion of Land, of any sums previously raised by way of principal sums or annual rates, shall have been greater or less than the due proportion with which such respective portion or parcel of Land ought to be chargeable, having regard to the benefit derived thereby from such drainage or improvement, it shall be lawful for the Commissioners, in and by their award, to diminish or increase the proportion of charge of such parcel or portion of Land, so as to adjust and remedy the inequality.

90. A Draft of the Award to be printed and published, and a copy deposited with the Clerk of the Peace.

And be it Enacted, That the said Commissioners shall, within One calendar Month next after the making of their said award, cause a draft thereof to be printed, and sold at a price not exceeding Two Shillings and Sixpence for each printed copy thereof, and shall within such calendar Month cause such draft, or a copy thereof, to be deposited with the Clerk of the Peace for every county wherein the Land, or any part thereof, which shall have been drained or improved, or in which such works may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same, and all persons shall have liberty to inspect the same on the payment of One Shilling; and when such draft of the award has been so deposited, the said Commissioners shall cause notice thereof to be inserted Once in each week for Three successive Weeks in some One or more newspapers usually circulated in such district or the vicinity thereof; and the Commissioners shall by such notice require all persons who may desire to lodge objections to the said award, to lodge the same at such place within such district and before such time as shall be specified in the said notice; and the Commissioners shall also in the said notice state that their Assistant Commissioner will proceed to hear any objections which may be lodged, and to settle the award at such time and place in or near such district, as shall be specified in the said notice, such time not to be sooner than Two calendar Months from the first publication of such notice.

Notice thereof to be inserted in Newspapers, requiring Persons objecting thereto to send in their Objections.

91. Assistant Commissioner to hear Objections (if any) to Award.

And be it Enacted, That the Assistant Commissioner shall attend at such time and place as they shall so appoint, and shall examine into the matter of any objection which shall be so lodged to the award, and shall hear all such proper evidence as may be offered to him in respect thereof, and shall report or suggest such alterations (if any) in the said award as he shall think fit, to the Commissioners, and may adjourn such attendance from time to time.

92. Award, to be deposited in the Office of the Commissioners, and to be printed.

And be it Enacted, That every award, when finally settled and signed by the Commissioners, with a proper map or plan annexed thereto, describing the district and the lands therein to which such award shall relate, shall be deposited in the office of the Commissioners; and such award, when so finally settled, shall be binding and conclusive on all parties, and a copy thereof, printed by the King's Printer, with a lithographed copy annexed of the map or plan, shall be evidence, and shall also be evidence that the award was duly made, and that all the requisitions of this Act in relation thereto were complied with.

93. Apportioned Expenses to be charged on Lands.

And be it Enacted, That the respective sums of money which by the award of the said Commissioners shall be specified as the proportions or contributions payable, as principal sums charged in respect of

of the several parcels or portions of Land or premises drained or improved by any works under this Act, to the Board of Trustees by which such works shall have been executed, towards the total amount of the sums expended in and about such drainage or improvement as aforesaid, with interest for such respective sums of money, at a rate not exceeding Five Pounds per centum per annum from the date of such award, shall be charged on such several parcels or portions of Land and premises so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such Land, except any quit or chief rents incident to tenure.

94. In case of non-payment of Money so charged, Trustees may enter into receipt of the rents and mortgage the Land.

And be it Enacted, That if any principal sum of money so charged as aforesaid, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of Three calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the Trustees to whom the same shall be payable, or any person authorized by them, to enter upon the Land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, but subject nevertheless to such quit or chief rent (if any) as aforesaid, and the rents and profits of such Land to receive and take until thereby or otherwise the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents and profits of such Land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery, upon the application by Petition of the said Trustees, to appoint a receiver of the rents and profits of such Land, which receiver shall have full power to receive the same rents and profits and apply the same, after deduction of the necessary expenses of the application to the said Court, and of such quit or chief rent (if any), in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Trustees, if they shall so think fit, with the approbation of the Commissioners, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such Land or a competent part thereof, but so that every such sum, with all interest thereon, shall be made payable within a term not exceeding Twenty Years from the date of such award; and every such mortgage made, and every receipt for the consideration-money given by such Trustees or any Two of them, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Trustees, with such approbation as aforesaid, is hereby authorized.

To demand the same of tenant, with entry and distress if not paid within Twenty-one Days.

95. Proprietors of less than fee-simple may charge the Expenses on the Land.

And be it Enacted, That any person entitled to less than an immediate estate of fee-simple may, with the consent of the Commissioners, charge the Land to which he shall be entitled, and which shall have been

been drained, or improved, under the provisions of this Act, with the proportion of any principal sum charged on him under the award of such Commissioners, or under any previous order of the Commissioners, or any part thereof, with lawful interest thereon; but so, nevertheless, that the charge upon such Lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least One-twentieth part of the whole sum of the instalments charged thereon by the award or order of the Commissioners, and the interest in respect thereof.

96. Clause (U.) Recovery of Annual Rate.

And be it Enacted, That in case any annual rate which shall be made by the Trustees elected under this Act, and which shall be payable in respect of any parcel or portion of land charged therewith under this Act, shall be in arrear or unpaid after the day which may be fixed by the Board of Trustees for payment thereof, and for Thirty Days after the demand thereof, it shall be lawful for any collector, receiver or other person authorized by virtue of any warrant under the hands and seals of Two Justices of the Peace for the county in which said lands are situated, issued upon complaint of the Clerk of the said Trustees, which complaint the said Justices are hereby empowered to hear and determine, to enter into the land or premises, the rates in respect of which shall be so in arrear and unpaid, and levy the sum of money owing in respect of such rates, and all arrears thereof, by distress and sale of the goods and chattels there found, in the same manner as in case of distress for rent reserved on common leases of land for years, rendering the overplus, if any, on demand, to the owner of such goods and chattels, after deducting the costs and charges of taking or making such distress and sale; and in case any land or premises drained or improved by any works under this Act shall at any time hereafter be untenanted or unoccupied, so that no sufficient distress can be found for levying the said annual rates, then the lands chargeable therewith shall always remain a security for payment thereof; and all goods and chattels which shall at any time thereafter be found thereon may be distrained and sold in manner aforesaid, until all arrears of the said rates and the charges of such distress shall be fully paid and satisfied.

97. Clause (V.) Repayment of Expenses of the Commissioners to the Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour of the Assistant Commissioners, and all other persons employed by the Commissioners in or about any declaration of a drainage or other district, and the drainage or improvement of such district, and the proceedings in relation thereto under this Act, by their award in the matter of such drainage or improvement, or by any order under their hands and seal, to order and declare that a sum in such award or order to be mentioned, be paid to the Commissioners, in respect of the proportion of the general expenses of the commission, which ought to be borne in respect of such drainage, improvement

improvement or other proceeding; and the Commissioners shall by such award or order direct that such sum be paid to them by the Trustees of such drainage or other district, or the other Trustees elected under this Act, and be raised in like manner as the principal sums charged under this Act, and shall appoint a time for payment thereof; and the same shall be paid to the Commissioners by the Trustees in preference and priority to any other sums to be paid out of the monies to be raised by them under this Act, and until raised shall be the first charge on the Land included in the drainage or other district, or other Land subject to the authorities of such Trustees; and the Commissioners shall forthwith, on receipt of such sum, pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund; and upon any application which shall be made under the provisions hereinafter contained, for the drainage or improvement of Land under this Act, without the intervention of a Board of Trustees, the Commissioners, before they shall authorize the execution of the works proposed for such drainage or improvement, shall require payment to be made to them in respect of the like proportion of the general expenses of the commission in relation to such matter, and shall take security, if they shall think fit, for the payment of any subsequent expenses in the same matter; and the sums paid to them as last aforesaid shall be in like manner paid by the Commissioners into the said Exchequer, to the account of the said Consolidated Fund.

98. Tenants paying Monies on account of Landlord, to deduct them from Rent, together with all expenses incurred thereby.

And be it Enacted, That every occupier of any Land who, not being a proprietor thereof within the meaning of this Act, shall pay any sum of money for the Land in his occupation, on account of his landlord, either by way of annual rate or otherwise, under and by virtue of the provisions of this Act, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the next immediate landlord of such occupier, if not himself a proprietor of such Land within the meaning of this Act, shall and he is hereby authorized to make the like deduction from the rent payable by him, and so on each sub-lessee and sub-lessor of such Land, not being a proprietor thereof within the meaning of this Act, being entitled to deduct the same so charged upon such Land, under or by virtue of this Act, from the rent payable to his next immediate landlord, until such deduction shall be made from the rent payable to a person being a proprietor within the meaning of this Act, who shall not be entitled to make any such deduction from the rent (if any) payable by him; and every such occupier, sub-lessee or sub-lessor paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any occupier or lessee to

deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

99. Clause (W.) Works may be executed by Board of Trustees within the jurisdiction of other Trustees, subject to appeal to the Board of Trade.

And be it Enacted, That when any Board of Trustees elected under this Act, or any Commissioners of Sewers, or any Trustees or Commissioners appointed under any local or private Act of Parliament for sewers or drainage, warping, irrigation or embankment, shall, for the purposes or in the execution of their works, be desirous to make any cut or work, or to carry or discharge any water through, or withdraw any water from, any land, river, watercourse or district, subject to the management or jurisdiction, or within the authorities or powers of any other Board of Trustees, or other such Trustees or Commissioners as aforesaid, notice of such desire, together with the plan proposed for such cut or work, or for carrying or discharging or withdrawing such water, shall be given by the Trustees or Commissioners desiring to make such cut or work, or to carry, discharge or withdraw such water, to the Clerk of the Trustees or Commissioners whose land, river, watercourse or district is to be affected thereby; and such last-mentioned Trustees or Commissioners shall, within Three calendar Months after such notice shall have been given, communicate to the Trustees or Commissioners giving such notice, their consent to such plan, or their dissent therefrom, with their objections, if any, thereto; and in case such consent shall be given, then such plan shall be executed by and at the expense of the Trustees or Commissioners proposing the same; but in case the Trustees or Commissioners whose land, river, watercourse or district is proposed to be cut through or affected, shall dissent or object to such plan, and such respective parties shall not agree in relation to such plan within Four calendar Months after notice shall have been given as aforesaid, it shall be lawful for the Trustees or Commissioners proposing such plan, to apply by memorial to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations; and it shall be lawful for the Lords of the said Committee to authorize any proper person to inspect the land, river, watercourse or district proposed to be cut through or affected by the proposed plan, and to consider such plan and the objections thereto, and the evidence in support of such plan and objections respectively, and to report thereon to the Lords of the said Committee, and whether or not the said plan will materially affect the drainage of the said district through which the water is proposed to be carried, and the directions or order of the Lords of the said Committee shall be binding and conclusive on all parties, and shall be obeyed accordingly; and the expense of such plan, and of all surveys and maps made in relation thereto, shall be paid by the Trustees or Commissioners proposing such plan: Provided, That all maps, plans, surveys and levels in the possession of the Trustees or Commissioners whose land, river, watercourse or district shall be proposed to be cut through or affected by such

such plan, shall, at the request of such other Trustees or Commissioners as aforesaid, be produced to them for their information or inspection; and that all the costs and expenses of the application to the Lords of the said Committee, and of the person appointed by the Lords of the said Committee as aforesaid, and of his inspection and examination, or in anywise incident thereto, shall be paid as hereinafter mentioned; (that is to say) in case the Lords of the said Committee shall disallow the objections to such plan, and direct the same to be executed, then such last-mentioned costs and expenses shall be paid by the Trustees or Commissioners proposing the plan, and by the Trustees or Commissioners objecting thereto, in equal moieties; but in case the Lords of the said Committee shall allow the objections to such plan, and direct that the same be not proceeded with, or that the same be varied in accordance with such objections, then such last-mentioned costs and expenses shall be paid wholly by the Trustees or Commissioners proposing such plan as aforesaid.

100. CLAUSE (X.) Application to execute Works without the intervention of Board of Trustees.

And be it Enacted, That it shall be lawful for any person or persons interested in Land not exceeding One thousand Acres in the whole capable of being drained or improved by drainage, warping or irrigation, or embankment, who shall be desirous to execute, without the intervention or election of a Board of Trustees, any of the works by this Act authorized to be executed by Boards of Trustees elected under this Act, but shall be unable to execute such works by reason of the objection, absence or disability of any person whose Land may be cut through or affected for the purposes of such works, or by reason of any other impediment which might have been removed by a Board of Trustees elected under this Act, to apply to the Commissioners by memorial, setting forth the circumstances of their case, and the person so applying shall furnish to the Commissioners the like maps, plans and schedules as are hereinbefore required in the case of the memorial to the Commissioners for the execution of this Act firstly hereinbefore provided for; or in case it shall appear to the Commissioners that a correct judgement can be formed on the proposed means of drainage or improvement without a map or plan and estimates, including the whole of the land to which such memorial shall relate, then a map or plan showing only the proposed works, or such other map or plan as the Commissioners shall think necessary; and such memorial or some schedule thereto shall also show the persons by whom the works are proposed to be executed; and the Commissioners shall direct such notices to be given to the persons, not parties to the said application, whose lands are proposed to be cut through or affected for the purposes of such works, as they shall think fit, and shall hear and determine any objections which may be made by such persons or any of them, in the same manner as hereinbefore directed in respect to the proceedings preliminary to the declaration of a drainage district; and may allow or disallow the proposed plan of

the said works, or alter or vary the plan of the proposed works, as they may think fit; and shall and may take such security, or enforce such provision for the compensation of any damage to be done in the execution of such works, and such other provisions or conditions for the protection of persons not parties to such application, as shall be agreeable to the directions hereinbefore provided.

101. CLAUSE (Y.) Commissioners may authorize Works to be so executed.

And be it Enacted, That in case the Commissioners shall approve any such plan either as the same shall have been proposed, or as the same shall have been altered or varied by the Commissioners, and shall think that the same might be fitly executed without the intervention or agency of a Board of Trustees, it shall be lawful for the Commissioners, by any order or declaration, to authorize the persons by whom such application as last aforesaid shall have been made, or any of them, or such person as shall have been named in the memorial in that behalf, or any other person or persons named or described by the Commissioners in any order or declaration, to execute the proposed works according to such plan as shall have been approved as aforesaid, within a time to be limited in such order or declaration; and the person or persons authorized in this behalf by such order or declaration, or any person or persons to be named from time to time in supplementary orders of the Commissioners, shall have the same powers of executing and maintaining the proposed works and the powers auxiliary thereto, as are hereinbefore given to a Board of Trustees elected under the authority of this Act; and all the provisions, clauses, matters and things hereinbefore contained, concerning the compensation for damage, and the purchase of Lands by Boards of Trustees under this Act, shall apply to the compensation for damage and the purchase of Lands by the persons authorized to execute works under the provisions lastly hereinbefore contained; and all Land purchased as last aforesaid, in case the persons interested differ about the same, may be conveyed to any person or persons upon such trusts as the Commissioners may direct.

102. Providing for injury to Roads.

And be it Enacted, That nothing herein contained shall authorize the permanent diversion of any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a meeting called for that purpose, be first obtained; and that before any turnpike-road, or other public road or way, be cut through or rendered impassable in the execution of any works under this Act, the Board of Trustees executing such works shall cause another sufficient road to be set out and made instead thereof, as near thereto as may be, and, unless the public road or way shall be permanently stopped or diverted, shall restore the same to its former line and condition, or as near as circumstances will permit, within Twelve calendar Months after the same shall have been first cut through or rendered impassable: Provided also, That before any public road or way shall be permanently discontinued,

discontinued, diverted, stopped up or altered by any Board of Trustees in the execution of the powers of this Act, they shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be permanently discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Board of Trustees shall also cause the same notice to be given by advertisement, published in some newspaper circulated in the county where such road shall be situated, for Four successive Weeks, and also posted on the church-door, or in some conspicuous place in the parish or extra-parochial place where such road shall be situate, on the Four Sundays of the said Four successive Weeks; and after the said several notices shall have been so given, such road or way shall, from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

103. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within Four Months after the First Sunday on which such notice shall have been given of the intention that such road or way should be permanently discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions of the county in which such road or way, or the greater part thereof, shall be situate, giving to the Trustees Ten Days' notice of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

104. Hearing of Appeal.

And be it Enacted, That in case of any such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be permanently discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impanel a Jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if, after hearing the evidence produced before them, the said Jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the appellant to the Trustees; and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said Jury shall return a verdict, that such road or way is not unnecessary, or that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court

shall allow such appeal, and such public road or way shall not be permanently discontinued, stopped up, diverted or altered; and the said Court shall award to the appellant the costs of prosecuting such appeal; and such costs shall be paid by the Trustees out of the monies to be raised under the powers of this Act.

105. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, or the stopping up, discontinuing, diverting, widening or altering of such roads and ways, and the money compensation in respect thereof, shall be paid in such manner as the expenses of any other works to be effected by the Trustees under this Act.

106. Commissioners to settle differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested or claiming to be interested in any Land to be drained or improved in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such Land, or touching any other matter relating thereto, it shall be lawful for the said Commissioners or an Assistant Commissioner, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned, for the purpose of this Act, but no further or otherwise.

107. Persons summoned and refusing to give Evidence, to be punished.

And be it Enacted, That it shall be lawful for the Commissioners or any Assistant Commissioner, or for any person appointed by the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations, upon any inquiry or proceeding to be had before them or him under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Commissioners and each Assistant Commissioner or person appointed as aforesaid are and is hereby empowered to administer) any person whomsoever; and if any person having been so summoned before the Commissioner or any Assistant Commissioner, or person appointed as aforesaid, to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained by the Commissioners or Assistant Commissioner, or person appointed as aforesaid, to defray the charges of his attendance, shall not appear before the Commissioners or Assistant Commissioner pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the Commissioners or Assistant Commissioner, or person appointed as aforesaid, upon proof thereof upon oath, shall and may, and they and he are and is hereby authorized, by warrant under the hands and seal of such Commissioners, or the

hand

hand and seal of such Assistant Commissioner, or person appointed as aforesaid, to direct any person whomsoever to cause any sum of money, not exceeding Five Pounds, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any), upon demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence, or otherwise forswear themselves in any such examination, shall, upon conviction thereof, suffer the penalties of wilful and corrupt Perjury.

108. Power to assess Costs

And be it Enacted, That in case the Commissioners or any Assistant Commissioner shall, upon the hearing and determination of any claim or objection to be delivered to or made before them or him in pursuance of this Act, so think proper, it shall be lawful for them or him to award and order such costs and charges as they or he shall think reasonable to be paid to the party in whose favour any such determination shall have been made by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same, on demand, then and in every such case it shall be lawful for the Commissioner or Assistant Commissioner, and they and he are and is hereby authorized and required, by warrant under the hands and seal of the Commissioners, or under the hand and seal of the Assistant Commissioner, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any), on demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Commissioners or Assistant Commissioner shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action; and in case such person shall upon the trial of such action establish the right against which the Commissioners or Assistant Commissioner shall have determined, such person shall not be liable to the payment of any such costs as last aforesaid, but shall be entitled to his costs of such action.

109. Allowing Parties to try their Rights by an Issue at Law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any Land to be included in any drainage or improvement to be effected in pursuance of this Act, shall be dissatisfied with any determination of the Commissioners or any Assistant Commissioner, concerning any right or interest in, over or upon such Land, or any part thereof, made in the execution of this

Act, or any injury or damage sustained by him by reason of any thing done under the direction or with the approbation of the Commissioners or by any Board of Trustees acting in the execution of this Act, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue against the person in whose favour any such determination has been made, within Three calendar Months after the determination of the Commissioners or Assistant Commissioner shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within Three Months after such injury or damage shall have been sustained, and thereupon the person so dissatisfied shall proceed to a trial at law at the next assizes immediately following to be held for the county where the Land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined, according to the event of such trial:

If no Action, the Commissioners' Determination to be final.

Provided always, That in case no action shall be commenced within Three calendar Months as aforesaid; or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said Commissioners or Assistant Commissioner shall be binding and conclusive to all intents and purposes whatsoever:

Death of Parties not to stop Proceedings at Law.

Provided also, That if any of the parties in any such action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened:

Suits not to delay the Drainage.

Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the Commissioners or any Board of Trustees in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in, notwithstanding such differences or suits.

110.

How Actions may be brought after

Provided always, and be it Enacted, That if any person in whose favour a determination as aforesaid shall have been made, and against whom

whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir, or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been actually living; and the rights of all parties shall be equally bound and concluded by the event of such action.

the Death of Parties.

111. Trustees not liable for Damage arising to Lands, &c., from insufficiency of Embankments, &c., unless Notice previously given.

And be it Enacted, That nothing herein contained shall be construed to render any Board of Trustees respectively liable for any consequential damages which may happen to any Land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, the said Trustees may take upon them the duty of regulating or maintaining: Provided nevertheless, That if the owner or occupier of such Land shall have given notice in writing to the said Trustees or their clerk, warning them or him of the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring such Trustees to strengthen, amend and repair the same, and the said Trustees shall not, with all reasonable speed, after the delivery of such notice, take proper precautions to prevent such damage, or to remedy such weakness or deficiency, then and in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by such Trustees under this Act.

112. Death of Parties not to suspend the execution of this Act.

And be it Enacted, That if any of the parties interested in any works by this Act authorized shall die before the same shall be completed, the powers and authorities vested in the Commissioners and Boards of Trustees respectively shall not be thereby determined or suspended, but the Commissioners and Trustees shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

113. Clause (Z.) Warping and Irrigation Trustees may make special Bye-laws.

And be it Enacted, That any Board of Trustees elected for the purpose of warping or irrigation under this Act, shall have power, under the control and with the approbation of the Commissioners, to make bye-laws for regulating the supply of water for warping and irrigation respectively to the Lands comprised within their respective districts, and the commencement and termination in each year of the

period of irrigation and warping respectively, and for enforcing the making, maintaining and cleansing of sufficient interior banks, sluices, tunnels, cloughs, channels, drains, hatches, and other works for preventing damage to adjoining lands, for the admission of water for warping and irrigation, and all such other bye-laws conducive to the beneficial use and application of water for such warping and irrigation respectively, and for the prevention of consequential damage, as the Trustees, under such control and with such approbation as aforesaid, shall think fit.

114. Persons destroying Works, guilty of Felony.

And be it Enacted, That all and every person or persons whomsoever who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of Seven Years, or to be imprisoned for any term not exceeding Two Years.

115. Penalty on Persons depositing Gravel, &c., so as to obstruct the free passage of the Water in the Rivers, &c. improved under this Act.

And be it Enacted, That if any person shall wilfully throw or deposit any ballast, gravel, or other matter or thing, so as to interrupt or obstruct the free passage of water through any of the rivers, watercourses, drains, cuts or sluices, which shall have been improved by any Board of Trustees under this Act, or shall, without the consent of such Trustees, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks of the rivers, drains or cuts aforesaid, so as the same may be likely to fall into or obstruct the passage of the water, or if any person shall maliciously open any sluice, dam, gate or watercourse belonging to the said drainage, or shall raise any wall, building or other obstruction in such rivers, drains, streams or watercourses, without the consent in writing of such Trustees, such person, being convicted of any of the offences aforesaid before any Justice or Justices of the Peace of the county where such offence shall be committed, by the oath of One or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding Ten Pounds, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices; and all such walls, buildings or other obstructions may be forthwith pulled down and removed by the Trustees, or any person or persons duly authorized by them, and the materials of such walls, buildings or obstructions may be sold by order of the said Commissioners to defray the costs of their removal.

116. Proceedings by Summons for the recovery of Penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons

mons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender, and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons without information in writing shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

117. Form of Conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in words to the same effect:

to wit. } "BE it Remembered, That on the day of A. B. is convicted before Her Majesty's Justices or Justice of the Peace for the county of by virtue of the Act passed in the seventh year of the reign of Her Majesty Queen Victoria, intituled [here insert the title of this Act, specify the offence, and the time and place when and where the same was committed, as the case shall be]; and we do adjudge that the said A. B. shall for the said offence . Given under our hands and seals [or, my hand and seal] the day and year aforesaid."

118. Recovery and application of Penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or incurred under the provisions or directions thereof, and all sums payable for compensation or damage, the manner of levying and recovering whereof is not hereinbefore otherwise particularly directed, may be recovered in a summary way by the order and adjudication of some Justice of the Peace of the county in which such offence shall have been committed, or such compensation shall have become due or damage happened, on complaint to him for that purpose exhibited by the oath or affirmation of any person, or on the confession of the party offending, which oath or affirmation such Justice is hereby authorized to administer; and in default of payment of such penalties or forfeitures, or sums for compensation or damage, the same shall be levied by distress and sale of the goods and chattels of the party making such default, by warrant under the hand and seal of such Justice, rendering the overplus (if any), on demand, to the party whose goods and chattels shall be so distrained, the reasonable charges of such distress and sale being deducted; and in case any such penalties or forfeitures shall not be forthwith paid, it shall be lawful for such Justice, and he is hereby authorized and required to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made of such warrant of distress, unless the offender can give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice, or before some

other Justice of the Peace for the county where such offence shall have been committed as aforesaid, on such day or days as shall be appointed for the return of the warrant or warrants of distress, such day or days not being more than Eight Days from the taking any such security, and which security any Justice is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the penalty and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he has no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain at hard labour for any time not exceeding Three calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid, and be by them applied to the purposes of this Act.

119. Proceedings not to be quashed for want of form.

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or, in case of appeal, before the court of quarter sessions, shall not be quashed or vacated for want of form only.

120. No Action to be brought against Person acting in execution of this Act, until after Notice, &c.

And be it Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees, or persons against whom proceedings are intended to be commenced, at least Twenty-one Days before such action, suit or information shall be commenced.

121. No Action to be brought after tender of sufficient amends, &c.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought;

brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

122. General Issue.

And be it Enacted, That if any action shall be brought against any person or persons as aforesaid for any act, matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give the special matter in evidence.

123. Clause (AA.) Differences may be submitted to arbitration.

Provided always, and be it Enacted, That in every case in which under this Act any person is authorized to require that a matter in dispute or difference be determined by the verdict of a Jury, and also in every case in which under this Act any person is hereby authorized to bring an action upon a feigned issue, it shall be lawful for the person so authorized, and the Commissioners, Trustees or persons with whom the dispute or difference shall have arisen, or against whom the action might be brought, by writing under their respective hands, or hands and seals, to submit the matter in difference to arbitration, or to arbitration and umpirage, upon such terms of reference and with such security for the payment of costs as the parties may agree upon, and such submission shall be irrevocable; and the arbitrator or arbitrators or umpire named in the said reference may proceed, notwithstanding the death of any party or parties; and the decision of such arbitrator or arbitrators or umpire, according to the terms of the submission, shall be final and conclusive on all persons, and the costs of such arbitration or arbitrations and umpirage shall be paid as the arbitrator or arbitrators or umpire shall direct.

124. Any party whose Lands may be injured by the neglect to maintain the Banks or scour the Channels of existing Drains, &c. may require the Proprietors so neglecting to join in an effectual cleansing and maintaining thereof.

AND whereas by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams or rivulets lying in or forming the boundaries of or leading to the outfall from such Lands, much injury is done thereto, and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where, by reason of the neglect of any such proprietor or occupier to maintain the banks or cleanse and scour the channels of existing drains, streams or rivulets lying in or bounding the lands of such proprietor or occupier, injury shall be caused, it shall be lawful for the proprietor or occupier of any Land injured thereby, to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing, delivered to him, or left at his usual place of abode, to join in the effectual

Mode of proceeding in case of refusal.

maintaining such banks, or in the cleansing and scouring of the channels of such drains, streams or rivulets; and in case he shall refuse effectually so to do, it shall be lawful for the proprietor or occupier of the Land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to proceed with the maintaining and repairing of such banks, or the cleansing and scouring of such channels as aforesaid, and to sue for and recover from such neglecting proprietor and occupier the whole or such just proportion of the expenses attendant thereon as he may be liable to, before the court of petty sessions of the division of the county or counties wherein such drain, stream or rivulet, or the part thereof which shall be cleansed and scoured, or either of them, shall be, and as may be fixed and determined by such court, who shall have power to fix and determine the same, and to award, in addition to the usual costs, such further costs, to be paid by such party and in such manner as to them shall seem reasonable: Provided always, That in all such cases when such drain, stream or rivulet shall not be a boundary between the adjoining lands of such proprietors or occupiers as aforesaid, it shall not be lawful for any such proprietor or occupier to proceed to maintain and repair the banks, or cleanse and scour the channel of such drains, stream or rivulet as last aforesaid, without a warrant or authority in writing so to do from Two or more Justices assembled in petty sessions for the county wherein such drain, stream or rivulet, or the greater part thereof, shall be situate, and which warrant or authority such Justices shall grant, if, upon inquiry had before them, upon a summons to be served upon the proprietors or occupiers of the Lands in which such drain, stream or rivulet shall be, and who shall have neglected to cleanse or scour the channels, or maintain the banks of the same, it shall be proved by one or more competent witnesses that the neglect so to do causes such injury or prevents such improvement.

125. Penalty for wilfully causing Obstructions in streams or Rivers.

AND whereas much injury is caused by persons placing or throwing stones and other materials into rivers, streams and drains, and thereby raising obstructions therein; BE it therefore Enacted, That if any person shall, after the passing of this Act, wilfully throw or place any stones, gravel or other material in any river or watercourse, and thereby create any obstruction in the free discharge of the waters therein, every such person, being convicted thereof before Two or more Justices of the Peace at petty sessions, shall forfeit and pay such sum, not exceeding the sum of Five Pounds, as such Justices may think proper, which penalty shall, in case of private property, be paid to the party aggrieved, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as such Justices of the Peace shall direct; and if such penalty, together with costs, if awarded (which costs such Justices of the

the Peace are hereby authorized to award if they shall think fit), shall not be paid, either immediately after the conviction, or within such period as such Justices shall at the time of the conviction appoint, the said Justices may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the said Justices shall think fit, for any term not exceeding Two calendar Months, unless such sum and costs be sooner paid; and it shall be lawful for such Justices to direct that the obstruction complained of shall be removed, and include in the costs which such Justices are hereinbefore authorized to award the expense of removing such obstruction: Provided always, That nothing herein contained shall extend to any case where the person complained of acted under a fair and reasonable supposition that he had a right to do the act complained of.

126. Saving of Local Drainage Acts.

Provided always, and be it Enacted, That, except as hereinbefore expressly directed, nothing in this Act contained shall extend to or affect the powers vested in the Commissioners appointed under any local or private Act of Parliament for Sewers or Drainage, or of any Commissioners of Sewers, or any charter, law, usage or custom concerning Romney Marsh, or concerning the North or Middle Level of the Fens, being part of the Great Level of the Fens, called the Bedford Level.

127. Saving Navigable Rivers and Canals.

Provided always, and be it Enacted, That nothing herein contained shall authorize or enable the Commissioners or Trustees, or any person or persons acting or pretending to act under this Act, to make or construct any work injurious to the navigation of any navigable river or canal, nor shall authorize or enable the Commissioners or Trustees materially to lessen the supply of water thereto, without previously making equivalent provision in lieu thereof.

128. Provision for Districts where there are no Petty Sessions.

And be it Enacted, That wheresoever throughout this Act any act, matter or thing may be directed to be done at the petty sessions for the district wherein any place may be situate, the same shall and may be done at the petty sessions for the next adjoining district, in any case where such place shall not be included in any such district.

129. Piers not to be constructed without leave of the Admiralty.

Provided always, and be it Enacted, That nothing in this Act contained shall authorize any Trustees elected hereunder, or any other person, to construct or erect any pier, quay, wharf, jetty, breast or embankment in or adjoining to any public harbour, or any river immediately communicating therewith, so far as the tide flows up the same, without the previous authority and consent of the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral

of the United Kingdom, to be for that purpose signified in writing under the hand of the Secretary of the Admiralty for the time being.

130. Saving the Property of the Ordnance.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or in any manner affect any of the estates, rights or property vested in the principal officers of Her Majesty's Ordnance, in trust for Her Majesty, Her heirs and successors, for the public service, or authorize or enable the said Commissioners, or any Trustees to be elected under the authority of this Act, or any other person or persons whomsoever, in any manner to interfere with any fortification, battery or other work of defence on any such estates, rights or property as aforesaid, or any easement, watercourse or other commodity or advantage belonging to or enjoyed therewith, or to quarry, dig or raise gravel, earth, stones, sand or other materials therein, without the consent of the said principal officers, or their successors in office, for the time being.

131. Definition of Terms.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction) "The Commissioners" shall mean the said Drainage Commissioners for England and Wales; the word "Land" shall extend to all arable, pasture, or otherwise profitable, and to all waste uncultivated land, whether bog-land, land flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other hereditaments, corporeal or incorporeal, and any estate or interest therein, and any undivided part thereof, and any charge or incumbrance thereon; and the word "River" shall extend to all rivers, rivulets, lakes, canals, streams and estuaries; and the word "Person," and the word "Proprietor" respectively, shall extend to the Queen's Majesty and to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to Lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the expression "Chief Rent" shall extend to and include all rent or rents reserved upon or payable out of or in respect of the estate or interest of any person being a proprietor within the meaning of this Act, or any estate or interest paramount thereto; and the word "County" shall extend and be applied to a county, county of a city, and county of a town, and to a riding, liberty and division of a county; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine

culine gender only shall extend and be applied to a female as well as a male.

132. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Drainage of Lands.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To facilitate the Drainage of Lands, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands.

(*Prepared and brought in by Mr. Pusey, Lord Worsley, and Sir John Trollope*).

Ordered, by The House of Commons, *to be Printed*,
30 *June* 1843.

[*Price* 8*d*.]

395.

Under 12 *oz*.

A

B I L L

[AS AMENDED BY THE COMMITTEE AND ON RE-COMMITMENT]

To facilitate the Drainage of Lands, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands.

[N. B.—*The Clauses marked* (A.) *to* (AA.) *were added by the Committee.*]

Preamble.

WHEREAS it is expedient that provisions should be made for promoting the Drainage of Lands in England, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for one of Her Majesty's Principal Secretaries of State to appoint Three fit persons to be Commissioners to carry this Act into execution, and at his pleasure to remove any one or more of the Commissioners so appointed, and upon every vacancy in the office of Commissioner to appoint some other fit person to the said office; and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

1. Appointment of Commissioners.

2. CLAUSE (A.) Style of the Commissioners.

And be it Enacted, That the said Commissioners shall be styled "The Drainage Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any Two of them may sit, from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners shall cause to be made a seal of the said Board, and shall cause to be sealed or stamped therewith all declarations and awards made and confirmed by the said Commissioners in pursuance of this Act; and all such declarations and awards and all other instruments proceeding from the said Board, or copies thereof purporting to be sealed or stamped with the seal of the said Board, shall be received in evidence without

without any further proof thereof; and no declaration or award shall be of any force unless the same shall be sealed or stamped as aforesaid.

3. CLAUSE (B.) Declaration.

And be it Enacted, That every such Commissioner shall, before he shall enter upon the execution of his office, make the following Declaration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say),

I, do solemnly declare, That I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act.]

And every Assistant Commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of any such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justice or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

4. Commissioners to report.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings or any part thereof as the said Principal Secretary of State shall require, and shall, Once in every year, send to one of the Principal Secretaries of State a General Report of their proceedings, and every year such General Report shall be laid before both Houses of Parliament within Six Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within Six weeks after the next meeting thereof.

5. CLAUSE (C.) Power to appoint Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to appoint a sufficient number of persons to be Assistant Commissioners, and also a secretary and assistant secretary, and all such clerks, messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, secretary or assistant secretary, clerks, messengers, or officers, or any of them, and

on any vacancy in any of the said offices, to appoint some other person to the vacant office; and the person so appointed shall assist in carrying this Act into execution, at such places and in such manner as the said Commissioners may direct.

6. CLAUSE (D.) Appointments limited to Four Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, secretary, assistant secretary, or other officer or person so to be appointed, shall hold his office for a longer period than Four Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Four Years, and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

7. CLAUSE (E.) Salaries and Allowances.

And be it Enacted, That the salaries of the Commissioners, the allowance to the Assistant Commissioners, and the salaries of the secretary, assistant secretary, clerks, messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any Three of them: Provided also, That the said Lord High Treasurer or Commissioners of Her Majesty's Treasury for the United Kingdom of Great Britain and Ireland may allow to any Commissioner, Assistant Commissioner, secretary, assistant secretary, clerk, messenger or other officer, any such reasonable travelling and other expenses as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance respectively.

8. CLAUSE (F.) *Salaries, &c. to be paid out of the Consolidated Fund.*

And be it Enacted, That the salaries, allowances and travelling and other expenses of the Commissioners, Assistant Commissioners, secretary, assistant secretary, clerks, messengers and officers, as aforesaid, and all other incidental expenses of carrying this Act into execution, not herein otherwise provided for, shall be paid by the Lord Treasurer or the Lords Commissioners of Her Majesty's Treasury, out of the Consolidated Fund.

9. CLAUSE (G.) Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners or to any one or more of them such of the powers hereby given to the Commissioners as the Commissioners shall think fit, except the power to make or confirm declarations or awards, or the power to do any act hereby required to be done under the seal of the Commissioners; and the powers so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner, in pursuance of such delegated power, shall be of the same force and effect,

effect, and shall be obeyed by all persons, as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner: Provided also, That all acts and matters which, under the provisions hereinafter contained, are directed or authorized to be done or transacted by an Assistant Commissioner or Assistant Commissioners, may be done and transacted by the said Commissioners or any One of them.

10. How Persons interested in Lands liable to be flooded may proceed.

And be it Enacted, That it shall be lawful for any person interested in any Land liable to be flooded or injured by water, or capable of being drained, or of being improved by better drainage, or in any Land capable of being improved by warping, irrigation or embankment, or by more effectual warping, irrigation or embankment, to apply by memorial to the Commissioners for the execution of this Act, showing the means by which such Land may be drained, or such improvement may be effected, and praying that such drainage or improvement may be effected under the provisions of this Act; and to such memorial shall be annexed maps or plans, showing the Land to which such application shall relate, and the Land and property required to be taken, cut through, used, altered or interfered with for the purposes of such drainage or improvement, or likely to be affected by the proposed works; and also the rivers, watercourses, ditches and drains intended to be cleared, scoured, deepened or embanked, and the proposed variations, divisions, abridgments or enlargements of the same, and the new cuts, embankments, drains, watercourses and other works proposed to be made, and the engines and machinery proposed to be erected and kept up for the purposes of such drainage or improvement; and also schedules, showing the reputed proprietors, lessees and occupiers of the Lands proposed to be drained and improved, and the Lands and property required to be taken, cut through, used, altered or interfered with, and likely to be affected respectively for the purposes of such drainage or improvement; and also an estimate of the expense of the proposed works, engines and machinery, including the probable amount of money payable as purchase and compensation in respect of the Land and property required to be taken, cut through, used, altered or interfered with, and likely to be affected as aforesaid; and also a statement of the actual condition of the Lands proposed to be drained or improved, and of the probable increased value of the Land consequent upon the proposed works; and the persons by whom such application shall be made, shall, upon the request of the Commissioners, furnish such further details in respect of the said maps or plans, schedules, estimates and statements as the Commissioners shall think fit for their guidance in the matter of the memorial; and the persons by whom such application shall be made shall cause copies of the said memorial, maps or plans, schedules, estimates and statement to be deposited in such convenient place or

places

places as the Commissioners shall approve, within or near the district in which the land to which such application shall relate shall be situate, there to remain open for public inspection, and the deposit of such copies shall be certified to the said Commissioners in such manner as they shall require; and all persons shall be at liberty to inspect and make copies of or extracts from the said memorial, maps, plans, schedules, estimates and statement; and copies thereof or extracts therefrom shall be made, by such person as the said Commissioners shall direct, for any person who shall require the same, on payment of the costs of making such copies or extracts.

11. Publication of a Notice that Maps, &c. have been deposited.

And be it Enacted, That the said Commissioners shall cause a notice of such memorial having been presented, and of the parishes in which works are by such memorial proposed to be executed, and of the places in which copies of the said memorial, maps, plans, schedules, estimates and statement have been deposited as aforesaid, to be published in some newspaper usually circulated in the county in which the Land proposed to be drained or improved shall be situated, or by such other means as they shall think fit; and in all cases where it shall be proposed by such memorial to take or remove any mill or factory, or to lower, raise or modify any weir, dam or other work or obstruction, a copy of such notice shall be served on the owner, or reputed owner, and the lessee or occupier of, or posted on or near to such mill, factory, weir, dam, work or obstruction; and by such notice all parties interested or in any way affected by the proposed works, shall be required, on or before a day to be therein named, not sooner than Six Weeks from such publication and posting or service as aforesaid of such notice, to transmit to the Commissioners their objections (if any) to the said maps, plans, schedules, estimates and statement, and all other objections which such parties shall think fit to make with respect to any thing by the said memorial proposed to be done under the provisions of this Act.

12. Meeting of the Persons interested to be called by public Notice.

And be it Enacted, That the said Commissioners shall, either by the notice to be published as aforesaid, or by a subsequent notice to be published in like manner, call One or more public meetings of all persons interested in the Land proposed to be drained or improved, or likely to be affected by any of the works proposed to be executed for such drainage or improvement, to be held on such day or days subsequent to the expiration of such period of Six Weeks, and at such convenient place or places within the district wherein such Land so to be improved shall be situate, or in the vicinity thereof, as the said Commissioners shall specify in such notice: Provided always, That if the said Commissioners shall call such One or more meetings by a subsequent notice as before provided, they shall fix for such meeting a day, not sooner than Twenty-one Days from the date of such subsequent notice.

13. Proceedings at Meeting.

And be it Enacted, That at the time and place named in such notice as aforesaid, an Assistant Commissioner shall attend on the part of the Commissioners, and shall have power to adjourn any meeting from time to time, or hold any new meeting, as he may find necessary; and shall inquire into the correctness of the schedules containing the names of such reputed proprietors, lessees and occupiers as aforesaid; and shall hear and inquire into, on oath or otherwise, all such objections as shall have been or shall be then and there made by any person or persons interested in the said lands to the said memorial, maps, or plans, schedules, estimates and statement which shall have been made under the provisions hereinbefore contained, or the matter thereof respectively, or the drainage or improvement proposed to be effected; and also all such objections as shall have been made, or shall then and there be made, by or on behalf of the owner, lessee or occupier, or other person interested in any mill or factory, weir, dam, work or obstruction, or any Land likely to be affected by any thing by such memorial proposed to be done; and the said Assistant Commissioner shall receive and hear all such evidence as may be offered to him in relation to the several matters aforesaid, and shall take or receive the assents in writing of the proprietors of the Lands proposed to be drained or improved to the execution of the proposed works, and to the formation of the Lands proposed to be drained or improved into a drainage or improvement district under the provisions of this Act; and such Assistant Commissioner shall report all such objections, evidence and assents as aforesaid, with his observations thereon, to the Commissioners; and the Commissioners shall consider the proposed drainage or improvement, and the said memorial, maps, plans, schedules, estimates and statement, and such objections as may have been made thereto, and may allow or disallow the proposed works, or alter the plan of such proposed works, or any part thereof, as they may think fit: Provided, That if the Commissioners should alter the proposed works, or any part thereof, they shall call a subsequent meeting, subject to the aforesaid provisions, at which the alterations and estimates of the cost of such alterations proposed by the Commissioners shall be laid before the meeting for their assent or dissent, in manner aforesaid.

14. Declaration of a Drainage or Improvement District.

And be it Enacted, That in case the Commissioners shall approve such plan as aforesaid, it shall be lawful for the Commissioners to declare that the Lands proposed to be drained or improved as aforesaid, shall be a drainage district, or, as the case may require, a warping, irrigation or embankment district, within the provisions of this Act, by such name as the Commissioners shall in their declaration mention in this behalf, upon such assents being given as hereinafter mentioned, or (in case it shall appear to the Commissioners that such assents have been already given) from and immediately after the publication of such declaration; and in

case

case such declaration shall be made by the Commissioners, and such assents shall have been given or shall be given according to the provisions of this Act, to the execution of the proposed works, and to the formation of such district, then immediately after such declaration, or (whichever shall last happen) after such assents shall be given, such Land shall be a district accordingly for the purposes of the drainage or other improvements mentioned in such declaration; and the trustees of such district shall be elected as hereinafter mentioned: Provided always, That every such declaration of the Commissioners, or some schedule thereto, shall describe the Lands to be included in such district, and the proportions in which the respective Lands shall be chargeable towards the expenses of the proposed works, until the award shall have been made or until the Commissioners shall have otherwise directed under the provisions hereinafter contained; and in case the assents required by this Act shall have been given, the names of the proprietors who shall have given such assents: Provided also, That in case such assents shall not then have been given, and shall be subsequently given according to the provisions of this Act, notice of such assents having been given shall be published by the Commissioners in like manner as herein provided concerning the publication of such declaration as aforesaid.

15. Contiguous Land may be included in Drainage, &c. District.

Provided always, and be it Enacted, That if any persons interested in Lands contiguous to the Land proposed to be drained or improved as aforesaid shall, at or before any meeting to be held as aforesaid, claim to be admitted into the district which may be formed for the purposes of such drainage or improvement, then, upon the assent of the proprietors of Three-fourths or more in extent of such contiguous Land, it shall be lawful for the Commissioners to include such contiguous Land in such district accordingly.

16. No drainage, &c. District to be formed, unless Three-fourths of Proprietors assent.

And be it Enacted, That no Land shall be a district for the purposes of this Act, unless the proprietors of Three-fourths in extent of the Land proposed to be included in such district shall assent to the execution of the proposed works, and to the formation of such land into such district, in writing under their hands respectively, within such time as the said Commissioners shall appoint.

17. Who shall be deemed Proprietors.

And be it Enacted, That any person seised of or entitled to any portion of the Land proposed to be drained or improved, in possession, as tenant in fee-simple or in fee-tail, general or special, or as tenant by curtesy, and also any person who shall be entitled under any will or settlement, or any other deed or instrument (except a grant or lease reserving rent, or an agreement in writing for such grant or lease), for his own life or the life of any other person, or for years determinable on such life, and also every feoffee or trustee of any such Land, or of any such estate or interest therein as

aforesaid, for charitable or other purposes, shall be deemed a proprietor of such Land for the purposes of this Act; and in every case in which any person seised, possessed of or entitled to any such Land for any such estate or interest as aforesaid, shall be an infant, feme covert, idiot or lunatic, the guardian of such infant, the husband of such feme covert, and the committee of the estate of such idiot or lunatic, shall be deemed a proprietor of such Land for the purposes of this Act: Provided always, That no person shall be deemed a proprietor for the purposes of this Act for or by reason of any estate vested in him, which shall have been created by way of mortgage, or for the purpose of securing the payment of any sum of money, unless such person shall be in actual possession or in receipt of the rents and profits, but that the person who would be deemed a proprietor for the purposes of this Act, if such estate by way of mortgage or for securing any money had not been created, shall, notwithstanding such mortgage or security, be deemed such proprietor as aforesaid: Provided also, That where several persons shall have, in any Land so proposed to be drained or improved, such estates or interests as would otherwise entitle them under the provisions aforesaid to be so deemed proprietors, such of the said persons shall be deemed the proprietor for the purposes of this Act as shall be in the actual occupation of the said Land, or if none of such persons shall be in the actual occupation of the said Land, then such of the said persons as shall have such estate or interest as aforesaid therein next in reversion or remainder to the estate or interest of the person in actual occupation.

18. Joint Tenants to be accounted as one Person.

And be it Enacted, That co-trustees, joint tenants, tenants in common, and co-parceners jointly interested in any portion of Land proposed to be drained or improved, shall, in respect of the Land in which they are so interested, be accounted as one person: Provided always, That the assent or act of any one or more of such co-trustees, joint tenants, tenants in common and co-parceners shall, unless the other or others of them shall dissent therefrom, be a valid assent or act in respect of such Land under this Act, and that the majority in number of any such co-trustees or joint tenants, and the majority in value of shares of any such co-parceners or tenants in common, notwithstanding any dissent of the minority, may assent or act under this Act as if all such co-trustees or joint tenants, co-parceners or tenants in common had concurred.

19. As to concurrence of Lessee holding for a life or lives, &c.

Provided always, and be it Enacted, That where any portion of Land proposed to be drained or improved shall, at the time hereby appointed for the giving such assent as aforesaid, be in the actual occupation of any person under any grant, lease, or agreement in writing for a lease, for a life or lives, or for a term of years whereof more than Fourteen Years shall be unexpired, the consent in writing of such person shall be necessary in order to give validity to the assent

of

of the proprietor, in respect of the Lands comprised in such grant, lease or agreement, any thing hereinbefore contained to the contrary notwithstanding.

20. Assents may be given by Persons authorized.

And be it Enacted, That the assent and consent of every proprietor or other person required to be given in writing, and all votes and acts required to be given or done for any of the purposes of this Act, may be given or done by an agent authorized by writing under the hand of such proprietor; and the power of attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be appended to every assent in writing given by any such agent; and any such power of attorney may be in the form following:

"I, of do hereby appoint of to be my attorney, for all the purposes of an Act passed in the year of the reign of Her present Majesty, intituled

[Date.]

21. Notice to be given of the Places where copies of the Declaration shall be deposited.

And be it Enacted, That when a drainage or other district shall have been declared as aforesaid, the Commissioners shall deposit the declaration at some convenient place in or in the vicinity of such district, and shall cause a notice, stating the places in which copies of such declaration have been deposited, to be published for Two successive Weeks in some newspaper usually circulated in the county in which the drainage district, or part thereof, shall be situate.

22. Clause (H.) Mode of appointing Trustees.

And be it Enacted, That after any Land shall have been declared a drainage or other district under the provisions of this Act, and such assents shall have been given as aforesaid, the Commissioners shall and they are hereby required to call a meeting of the proprietors of the Land included in such district, by notice to be inserted Once in each Week for Three successive Weeks in some one or more newspaper or newspapers usually circulated in the county in which such district or part thereof shall be situate, in order to make choice of Trustees for the execution and maintenance of the proposed works; and such Trustees so to be chosen shall not be less than Three, or more than Nine; and the number of such Trustees, within the limits aforesaid, shall in the notice for the first election of Trustees be fixed by the Commissioners; and they shall continue in office for the term of Seven Years from the time of their election, and until new Trustees are appointed in manner hereinafter mentioned; and at the expiration of every such term of Seven Years, and also at the expiration of every succeeding term of Seven Years for ever thereafter, new Trustees shall

from time to time be in like manner chosen by the proprietors of the Lands included in such district, at a meeting for that purpose to be summoned Six Weeks before the expiration of the said Seven Years by the Clerk of the Trustees, with notice as aforesaid to be holden; and the Trustees so to be elected shall be chosen by the proprietors of the greater portion in extent of such Lands, or by the assent of such proprietors, certified in writing under their hands in books to be kept for that purpose; and the Trustees of every such drainage and other district shall form a separate Board of Trustees, and are hereby authorized to make and maintain, or cause to be made and maintained, the works set forth in the plan which shall have been approved by the Commissioners as aforesaid, and also all such cuts, drains, banks, sluices, tunnels, bridges, engines, machinery, buildings and other works in and about their district, or in or about any other Lands, as the Commissioners shall authorize to be made for the purposes of the drainage or improvement for which such district shall have been declared, and as the Trustees shall think necessary for draining or improving the same, and shall exercise all other powers in relation to the matters aforesaid or connected therewith as are given to Boards of Trustees under this Act; and in case any Trustee shall die, or refuse or become incapable to act in the execution of this Act, before the expiration of the term of Seven Years for or during which he shall have been chosen to act, a person shall be chosen to be a Trustee in his room during the remainder of the term of Seven Years, at a meeting to be called for that purpose, in like manner as the said Trustees are hereinbefore directed to be elected at the expiration of every such term of Seven Years; and every such Trustee being so chosen shall, during the remainder of the existing term of Seven Years, have the like powers and authorities whatsoever to all intents and purposes as the Trustee in the room or stead of whom he shall be chosen would have had by virtue of this Act, if in being and continuing to act in the execution of the trusts and purposes hereinbefore mentioned: Provided always, That after the expiration of every term of Seven Years, and after the death, refusal or incapacity of any Trustee, and until new Trustees or a new Trustee shall from time to time be elected in manner hereinbefore directed, the lastly-elected or the surviving or continuing Trustees for the time being shall have the like powers and authorities to all intents and purposes, and shall continue to act in the execution of the trusts and purposes hereinbefore mentioned, as if the period of their original election had not expired, or as if a new Trustee had been appointed.

23. Clause (I.) Trustees may sue or be sued in name of their Clerk.

And be it Enacted, That all actions, suits and other proceedings at law or in equity to be commenced or instituted for or on behalf of any Board of Trustees of any drainage or other district, or for or on behalf of any other Board of Trustees to be elected under the provisions

visions of this Act, for recovering any debts or damages, or enforcing any claims, demands or contracts, or for any other matter relating to the property or concerns of such Trustees, whether against any person being a member of the Board of Trustees or otherwise, shall and may be commenced or instituted and prosecuted in the name of the Clerk for the time being of such Board of Trustees, as the nominal plaintiff or petitioner, for and on behalf of such Board of Trustees; and that all actions, suits and proceedings at law or in equity, to be commenced or instituted by any person, whether a member of such Board of Trustees or otherwise, against such Board of Trustees, shall and may be commenced, instituted and prosecuted against the Clerk for the time being of such Board of Trustees, as the nominal defendant for and on behalf of such Board of Trustees; and that all indictments, informations and prosecutions by or on behalf of such Board of Trustees, for any stealing or embezzlement of money, securities for money, effects or other property of or belonging to such Board of Trustees, or for any fraud, forgery, crime or offence committed against or with intent to injure or defraud such Board of Trustees, shall and lawfully may be had, preferred and carried on in the name of the Clerk for the time being of such Board; and in all such indictments and informations it shall be lawful and sufficient to state the money, securities for money, effects or other property of such Board of Trustees, to be the property of the Clerk for the time being of such Board; and in all other allegations, indictments, informations or other proceedings of any kind whatsoever, in which it otherwise might have been necessary to state the names of the Trustees composing such Board of Trustees, it shall and may be lawful and sufficient to state the name of the Clerk for the time being of such Board; and the death, resignation, removal or any act of such Clerk shall not abate or prejudice any such action, suit, indictment, information, prosecution or other proceeding commenced against or by or on behalf of such Board of Trustees, but the same may be continued, prosecuted and carried on in the name of any other Clerk for the time being of such Board.

24. Clause (J.) Contract signed by Two Trustees or their Clerk, to be valid.

And be it Enacted, That all contracts and agreements to be made or entered into for or concerning the execution of any works or other matters or things to be done by or under the direction of any Board of Trustees under the authority of this Act, signed by the Trustees composing such Board, or by any Two or more of them, or by their Clerk, and by the contractor or person with whom such contracts and agreements shall be entered into, shall be good, valid and effectual to all intents and purposes.

25. Clause (K.) Trustees to hold annual Meetings, and fix the Amount to be raised for Maintenance and Repairs

And be it Enacted, That it shall be lawful for every Board of Trustees, and they are hereby authorized and required, Once in every year, to meet in some convenient place, and then to determine and fix the sum of money that shall be contributed and raised during the then ensuing year, as an annual rate, for the purposes of repairing, sustaining,

for the Works for the ensuing year.

ing, supporting and upholding the works by this Act authorized, and for other the purposes hereinafter mentioned, and (having regard to and in the proportions fixed for such purpose by the said Commissioners in their declaration, or by their award, in case such award shall have been made) to assess, rate and tax the proprietors of the said Land for and towards the payment and satisfaction of all such sums of money, costs, charges and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof; and the said several sums so rated and assessed shall be charged on the Land so drained or improved in preference to and with priority over all mortgages, charges and incumbrances thereon except the tithe-commutation, rent-charges, if any, and any quit or chief rent incident to tenure; and payment thereof shall be enforced in manner hereinafter mentioned; and the said Trustees shall and may meet at such other times, and as often as they shall think fit, for the execution of the powers of this Act; and at every meeting held by such Trustees, all questions shall be determined by such of the Trustees, being Two or more in number, as shall be present, or by the majority of such of the Trustees as shall be present, and such majority shall and may exercise all the powers and authorities given to the Trustees by this Act, without the concurrence of the other or others of them.

26. Clause (L.) Trustees to execute Works.

And be it Enacted, That the Trustees of any drainage or other district which shall have been declared as aforesaid, shall and may, at any time after their election, subject to the provisions hereinafter contained, commence and proceed with the works specified in the plan allowed by the Commissioners, under such control of the Commissioners as hereinafter provided, and shall obey all directions of the Commissioners in reference to such works, and all other directions of the Commissioners by this Act authorized to be given.

27. Where the weir, dam, &c. causes occasional flooding, Trustees may construct Works for the discharge of the surplus water, &c.

And be it Enacted, That in cases where, from the damming up of any river or stream by any weir, dam or other work or obstruction, occasional damage may arise by the overflowing of such river or stream, it shall be lawful for the said Trustees, in pursuance of any plan of drainage or improvement which shall have been approved by the Commissioners, to construct any reservoir, embankment, tunnel or back drain, and to erect any floodgates, sluices, over-falls or other works, and to make any alterations in such weirs, dams, works, and obstructions or the watercourses connected therewith, which shall be necessary to prevent the ill consequences of sudden or occasional floods in such river or stream, and to provide for the more safe and easy discharge of surplus water therefrom, but always so that the supply of water sufficient for securing the amount of working water-power theretofore enjoyed by any mill or factory, or actually used or employed for any works, shall not be thereby lessened; and the level of the water at which such

amount

amount of working water-power shall be secured shall be previously inquired into and ascertained by the Commissioners; and all persons interested in such mill, factory or works, or in any Land to be drained or improved as aforesaid, shall be at liberty to object to the level which shall be so ascertained, either at the meeting hereinbefore directed to be held, or at any meeting to be called by the Commissioners for such purpose; and the Commissioners shall hear and decide upon all such objections, and declare what such level shall be, and shall show or state the same in the plan to be approved by the said Commissioners; and the said Commissioners, in case they shall so authorize an interference with any such mill, factory, or works, shall also direct a sill or gauge to be erected at some one floodgate, sluice or other convenient position connected with such mill or factory,on which shall be marked, in clear and legible figures or letters, the due and proper level of water ascertained and declared as aforesaid.

28. Where the weir, dam, &c. of a Mill or Factory by flooding causes injury, &c., all necessary alterations may be made therein, if the water-power be not lessened thereby.

And be it Enacted, That if any weir, dam or other work or obstruction, connected with any mill, factory or works, shall cause the flooding of any Lands included in any drainage or other district, declared under this Act, situate near the stream or river flowing to or over such weir, dam or other work or obstruction, so as thereby to injure such Lands, or prevent their improvement, and if such flooding cannot, in the opinion of the Commissioners, be otherwise remedied or prevented, it shall be lawful for the Commissioners, so far as shall be necessary for remedying or preventing such flooding and injury, or such impediment to the improvement of such Lands as aforesaid, to direct or authorize the Trustees to alter any such dam, weir, work or obstruction, or the position or level thereof, and to raise or lower or alter any water-wheel, or any machinery immediately attached thereto, and the levels of the head and fall of any water to such mill, factory or works: Provided always, That in all cases where any such raising, lowering or alteration as aforesaid shall be effected, the amount of working water-power of such mill, factory, works or water-wheel, shall not be in anywise lessened thereby; and that all such additional wheels, fittings, buildings, machinery, sluices, cuts, dams, gates, and all other such works and things as shall be suited to such raising, lowering, modification and alteration respectively, or necessary or proper and sufficient for the due, convenient and permanent working of such mill, factory or works, with such full amount of working water-power, shall be made, provided, erected, fitted and placed by the Trustees in a workmanlike manner, and with proper and durable materials; and that the Trustees shall (save as hereinafter provided) from time to time and at all times uphold, maintain and keep in repair all such additional sluices, cuts, dams, gates and other works as shall be so made, provided, erected or placed, or as shall be necessary or proper and sufficient for the purposes aforesaid; and that the expense of so making, providing, erecting, fitting, placing,

placing, and (save as hereinafter provided) of maintaining, repairing and upholding the same, shall be raised, levied and defrayed out of the funds and rates which shall be provided or imposed in relation to any Lands in such district, under the provisions of this Act: Provided also, That nothing in this Act contained shall be deemed or construed to create or confer any right to any water in respect to any mill, factory, or works, to which the owner or occupier would not have been entitled if this Act had not been passed.

29. Where the weir, dam, &c. of any Mill or Factory causes injury, &c., the same may be taken at a valuation.

And be it Enacted, That if any mill, factory, weir, dam or other work or obstruction shall cause the flooding or prevent the draining of any Lands included in any such drainage or other district, so as thereby, in the opinion of the Commissioners, to injure such Lands or prevent their improvement, to an extent in value equivalent to or exceeding Three times the then present value of such mill, factory, weir, dam or other work or obstruction, it shall be lawful for the Commissioners to authorize or direct the Trustees, in case they shall not agree for the purchase of such mill, factory, weir, dam or other work or obstruction, to take the same, and to award compensation for the value thereof, together with Twenty Pounds for every Hundred Pounds in addition thereto, and also for the loss or injury arising to the tenant or owner thereof, in like manner and subject to the like appeal as by this Act provided in reference to any Land to be taken by the Trustees for the purpose of any works to be executed under this Act.

30. Before Mill or Factory interfered with, Declaration shall be made, containing necessary statements

Provided always, and be it Enacted, That before the said Commissioners shall authorize the Trustees to take any such mill, factory, weir, dam, work or obstruction, and the works connected therewith as aforesaid, or to effect any such construction, erection, lowering, raising or alteration as aforesaid, the Commissioners shall, in the declaration which they are hereinbefore authorized to make, or in some supplementary declaration or order in writing, declare or state that such mill or factory, weir, dam or other work or obstruction as aforesaid, causes the flooding whereby such injury is produced or improvement prevented, and whether such injury or prevention of improvement be or be not, to an extent in value equivalent to or exceeding Three times the value of such mill or factory, weir, dam, work or obstruction; and in case such injury or prevention of improvement be to an extent in value less than Three times such value, it shall be stated in such declaration or order, whether, in the opinion of the Commissioners, such flooding can or cannot be remedied without altering such mill, factory, weir, dam, work or obstruction, or the position or level thereof, and also the amount of the actual working water-power of such mill, factory or works, and also the level of the water at which the amount of working water-power theretofore enjoyed by such mill, factory or work can be secured; and the said Commissioners

Commissioners shall deliver or cause to be delivered to the occupier of any such mill, factory or works, or to his clerk, agent or servant superintending the same, and also to the owner, if he shall be known to the Commissioners, or to his agent, a copy or duplicate of such declaration or supplementary order or declaration as aforesaid, with a written description of such part of the proposed works as shall be intended to be executed at or in respect of such mill, factory or works.

31. Commissioners to give a final Notice that all the requisites of the Act have been complied with.

And be it Enacted, That when and so soon as all the several preliminary measures and proceedings hereinbefore directed to be taken and observed, including such appeal (if any) to the determination of a Jury, or such arbitration (if any) as hereinafter provided for, shall have been concluded, the Commissioners shall give a final notice that all the requisitions of this Act with respect to the works by such declaration or order directed or authorized have been duly complied with; and a copy of such notice, signed by the Commissioners, shall be published Once in Two successive Weeks in the London Gazette, and in some newspaper usually circulated in the county wherein such Land, or part thereof, shall be situate.

32. Publication of such Notice to be conclusive.

And be it Enacted, That the publication of any such last-mentioned notice shall be deemed final and conclusive evidence that the several preliminary measures, proceedings and requisitions hereinbefore directed to be taken and observed have been duly taken and observed; and after such publication it shall not be lawful for any person to question or appeal against or in respect of any thing whatsoever done or omitted to be done by the Commissioners, or under the direction or authority of the Commissioners, in pursuance of such declaration or order.

33. As to Expenses of preliminary Proceedings.

And be it Enacted, That in every case where any such final notice shall be published as aforesaid, all the costs and expenses of the preliminary proceedings hereinbefore directed to be taken shall be considered as expenses incidental to the execution of the works proposed to be executed, and shall be defrayed by the Trustees accordingly.

34. Clause (M.) Trustees to appoint Officers.

And be it Enacted, That it shall be lawful for such Trustees to appoint, employ and dismiss at pleasure such engineers, surveyors, clerks, collectors, and other necessary officers, and pay and allow, out of the funds at their disposal under this Act, to such officers such yearly or other salary or wages as the said Trustees shall think fit; and all and every the person or persons employed as aforesaid shall, when required so to do by the said Trustees, render to them a true and perfect account of all monies which shall have been received and paid by them respectively by virtue of such employment, with proper vouchers for the same, and shall pay to the said Trustees, or such person as they shall

All Officers to account.

authorize to receive the same, all such sums as shall be due to the said Trustees from such persons, and shall deliver up all vouchers, books and writings relating to their respective offices to the said Trustees; and in case any person who shall be so employed as aforesaid shall refuse or neglect to render such account and make such payment as aforesaid, or to deliver up such vouchers, books and writings to the Trustees, or to such person as they shall empower to receive the same, then and in every of the said cases it shall and may be lawful to and for any Two or more Justices of the Peace, at petty sessions assembled, to inquire into the matter of such default in a summary way; and if such person shall thereof be convicted, either by confession or by the testimony of any One or more credible witness or witnesses upon oath, such Justices shall commit the party to the common gaol of the county, there to remain for any time not exceeding Twelve calendar Months, or until he shall have made a perfect account and payment as aforesaid, and shall have delivered up all such vouchers, books and writings in his custody, or shall have compounded or agreed with the said Trustees, which composition and agreement the said Trustees are hereby empowered to make.

35. Reservoirs and Embankments to be made.

And be it Enacted, That it shall be lawful for the Trustees at their discretion, and for the purposes of this Act, to make reservoirs or embankments, with valves and cloughs to draw the water from or out of such reservoirs, and also cuts, aqueducts, feeders, bye-washes, spill-waters, weirs, dams, banks, drains, sluices and other works for securing a supply of superabundant or flood-waters to the said reservoirs or embankments, or for leading the waters therefrom, with over-falls for allowing the escape of water, and for the protection, security, cleansing, repair and maintenance of such reservoirs and other works, and also to provide for the superintendence and regulation of the outlet of water from every such reservoir, and all matters and works connected therewith; and it shall also be lawful for the said Trustees to make any road or way in lieu of any existing road or way which it may be necessary to divert or occupy for the purpose of making any such reservoirs, embankments or works, and to make and maintain all such other roads or ways in, through, over or upon any land near to or adjoining any of the said reservoirs, as they may find expedient, for enabling them, and their engineers, surveyors, agents, officers, workmen, servants and other persons in their employ, to have access to such reservoirs, embankments and works, or any of them, with or without cattle, carts or carriages.

36. Power to divert the surplus waters of Rivers, &c. adjoining the Reservoirs.

And be it Enacted, That it shall be lawful for the said Trustees to make such feeders or channels, with such cut-waters, drains and other works as they shall deem proper, for collecting and conducting

ducting into the said several reservoirs the surplus waters over and above the necessary supply of any river, stream, brook or spring near thereto, and of the tributary streams and rivulets of any such brook or stream over and above what shall be sufficient for the supply of mills or factories, land or works through or near to which the same rivers, streams or brooks respectively flow.

37. Where Reservoirs or Embankments may be made for maintaining a constant supply of water to Mills or Factories, Commissioners may make same, &c.

And be it Enacted, That for the purpose of maintaining a constant supply of water for mills, factories or works on any river, or preventing sudden floods therein, it shall be lawful for the Commissioners, with the assent of the proprietors of such mills, factories and works, the value of the working water-power of which shall be equal to Three-fourths of the value of the working water-power of the mills, factories and works which shall be then existing on such river, and affected by the maintaining of such constant supply of water, to authorize and direct the proprietors of all mills, factories and works on such river which shall be so affected by the maintaining of such constant supply of water as aforesaid, to elect Trustees under the provisions of this Act for making and maintaining reservoirs or embankments; and such Trustees shall have power to make and maintain such reservoirs or embankments as shall be allowed by the Commissioners, and to impose a rate or charge on the whole of the mills, factories and works along such river which shall be benefited thereby, and on such new mills, factories and works as shall or may be formed thereon and benefited thereby, for the purpose of defraying the costs of making and maintaining such reservoirs or embankments, in the proportion of the benefit conferred; and such Trustees shall have such and the like power and authority to recover the amount of rate or charge which shall be so fixed and determined by them as are by this Act given to Trustees of a drainage or other district for the recovery of any rate or charge for the purposes of drainage or improvement; and it shall be lawful for the Trustees to borrow money for the purpose of making such reservoirs or embankments as last aforesaid, upon the security of the taxes or rates which they are hereby empowered to impose on such mills, factories and works as aforesaid: Provided always, That it shall not be lawful for the Trustees to make any such reservoir or embankment, or to take away, injure or prejudicially affect any Land for the purpose last aforesaid, without the consent for that purpose first had and obtained in writing of all persons having any estate or interest in such Land greater than a term of Seven Years then unexpired: Provided also, That in each case, before any such reservoir or embankment as last aforesaid shall be made, all the preliminary measures and proceedings hereinbefore required to be taken or observed previous to the publication of such final notice as aforesaid, in cases where works for

drainage or improvement are allowed by the Commissioners or such of them as shall be applicable, with like right of appeal, shall be duly taken and observed, and a final notice, stating that all the requisitions of this Act with respect to such reservoirs or embankments have been duly complied with, shall be published in such manner as the final notice hereinbefore mentioned, which shall be in like manner binding and conclusive on all persons; and thereupon all the provisions, powers and authorities in this Act contained or given for the purpose of drainage or improvement within a drainage or other district declared under this Act, shall and may be used and exercised for making and maintaining such reservoir or embankment, or for any other matter or thing relating thereto.

38. In cases of Reservoirs, &c., who shall be deemed Proprietors of Mills or Factories.

And be it Enacted, That in all cases where any such reservoirs or embankments as last aforesaid are proposed to be made, each person shall be deemed a proprietor of any such mill, factory or works as last aforesaid, who shall have therein such an estate or interest as is hereinbefore required to qualify any person to be deemed a proprietor of any Land proposed to be drained or improved under the provisions of this Act.

39. Weirs may be altered or removed, making Compensation to the Owners thereof.

And be it Enacted, That it shall be lawful for the Trustees of any drainage or other district, and for any other Trustees elected under the provisions of this Act, with the allowance or by the direction of the Commissioners, from time to time to alter or remove any fishing weir erected in or upon any river, or any impediments whatsoever not hereinbefore expressly provided for in or on any river which shall be within their drainage or other district, or which shall affect or interfere with any works executed or proposed to be executed under the provisions of this Act, making such satisfaction and compensation for all damage or injury to the proprietors or other persons interested in such weirs or impediments, by and out of the monies to be raised and levied by virtue of this Act, as shall be settled and ascertained in manner hereinafter mentioned, in case the Trustees shall not be able to come to an agreement for the same with such proprietors or persons.

40. Power to Commissioners, in case the Mill-power be improved with Owner's consent, to rate the Mill-owner towards the expenses of the Works.

And be it Enacted, That in case the proprietor of any mill, factory or works shall consent that any dam, weir or watercourse, or other obstruction connected with such mill, factory or works, shall, for any of the purposes of this Act, be altered and rebuilt, or that such mill, factory or works shall, by any works effected under this Act, obtain any increased water-power, it shall be lawful for the Commissioners, on the application of the Trustees, to fix and determine the amount of rate or contribution which shall be paid by the proprietor of such mill,

mill, factory or works for the improvement which shall be so effected, towards the repayment of the costs and expenses of the works to be executed within the district within which such mill, factory or works shall be situate, or by which such increased water-power shall have been obtained, and the rate which shall be paid in future for such increased water-power; and the Trustees shall have such and the like powers and authorities to recover the amount of rate which shall be so fixed and determined as are given to them by this Act for the recovery of any other rates which they are hereby authorized to recover.

41. Any improvement made in the dams to Mills, &c. shall be set off against loss by temporary stoppage.

And be it Enacted, That in all cases in which, in the progress of the execution of any works under the provisions of this Act, any mill, factory or works shall be stopped from working, and compensation shall be awarded for any injury resulting therefrom, it shall be lawful for the Trustees or Commissioners, subject to the appeal under the provision hereinafter contained for the adjustment of claims for compensation, to set off against the same the value of any benefit resulting from any improvement which shall be effected by the execution of such works in the water-power of, or constancy of supply of water to, such mill, factory or works, or by the relief from back-water afforded to it.

42. Trustees may appoint Persons to open Floodgates, &c.

And be it Enacted, That the Trustees may, if they shall deem fit, for the prevention of dispute, and for the due regulation of the water in any river, canal, cut or drain which shall be improved or made under the provisions of this Act, appoint a proper person for the regulation, opening and closing of any floodgates, sluices, stopgates, or stops of any weir, dam or other work connected with any mill, factory or works which may have been in any respect interfered with by the said Trustees, or of any weir, dam or other work which may be under the care or control of the said Trustees, or vested in or erected by them under the provisions of this Act; and such person so appointed shall have full power and authority to regulate, open and close the same for the purposes aforesaid, subject nevertheless to the orders and directions of the Trustees and the general control of the Commissioners; and all expenses of maintaining the same, and the sills and gauges hereinbefore directed to be erected, and of remunerating the person employed to regulate the same, shall, save as hereinafter provided, be defrayed by the Trustees out of the monies and rates which shall be levied by them under the provisions of this Act.

43. Owners or occupiers not to be exonerated from making Repairs.

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the owner or occupier of any mill, factory or works, or any other person, from such obligation, duty or liability to preserve or repair the banks of any river, or to maintain any dam or sluice or floodgate, or any engine, contrivance or other

work for regulating or maintaining the supply of water in any dam or watercourse, or to maintain or repair any building, machinery or other work whatsoever, as he may or would have been respectively subject or liable to if this Act had not been made.

44. Power to execute the Works.

And be it Enacted, That it shall be lawful for any Trustees elected under this Act to contract with or employ such contractors, surveyors, agents and workmen as they shall think fit, and to make and execute all such works as shall be described in the maps or plans allowed or approved by the Commissioners for effecting all or any of the purposes of this Act, and for such purposes to enter into and upon any Land included in the said maps, and to widen, straighten, deepen, divert, scour or cleanse any river, stream, ditch or drain, brook, pool or watercourse running through such Land, and in and upon such Land to make, open and cut any new watercourse, side cut, ditch or drain, and to alter or remove any bank, sluice, flood-gate, clough, hatch, ditch or drain or tunnel, and to make or erect any wharf, landing-place, bank, sluice, flood-gate or other building, clough, hatch, ditch or drain, tunnel or other works necessary for drainage, embankment, warping and irrigation, and for supply of water for the use of cattle, and to dam, bar and stop up, with any weir or dam, any river or watercourse, and also to make upon such Land any embankment against the sea, or against any river or watercourse, and to put and place on such Land any piles, stones, earth, soil or other materials for the purposes of the works, or for the more effectual protection or defence of such Land, or for the better conveying the waters from the said Land into the sea, or into any river or watercourse, and also to form any dam, and to erect any sluice, hatch or lock in any river or watercourse, for the purpose of supplying water to any mill, factory or works, or to any site proper for the erection of a mill, factory or works thereon, or of keeping back a sufficiency of water for the use of cattle, or for warping or irrigation, and also to stop up or divert any road or remove any bridge, and to make any new road or bridge, and also from time to time to repair, alter or remove any sluice, floodgate, hatch, tunnel, road or other works now made or to be made as aforesaid, and to divert, deepen, widen, cleanse and scour any ditch, drain, watercourse or side cut now existing or to be made as aforesaid, and also to do all such things, and erect and maintain such steam and other engines, and machinery, and execute all such works as may be necessary or convenient for the purposes of this Act, making compensation, to be ascertained in the manner hereinafter mentioned, to all persons for any damage occasioned to them by the exercise of any such powers.

45. Trustees may enter Lands within the district, and dig for

And be it Enacted, That it shall be lawful for the said Trustees or any engineer, workman or other person authorized by them, after Three Days' previous notice, to enter into and to search for, dig, take and

and carry away materials out of any Land lying within their drainage or other district, for the purpose of executing or repairing any works under the provisions of this Act, making compensation for the surface damage done to the proprietors, lessees or occupiers of such Lands, according to their respective interests therein; and in case of dispute, such compensation shall be settled, on a summons to be issued for that purpose by any Two or more Justices of the Peace for the county, riding or division in which such Land is situate, at petty sessions: Provided always, That in all cases where materials shall be taken from an open quarry or pit bonâ fide demised to any person, with liberty to raise, sell and dispose of the materials therein, the value of such materials shall be paid for by the Trustees, and the amount owing, in the event of difference as to the same, shall be settled on summons by any Two or more Justices as aforesaid.

materials, on making Compensation.

46. Trustees to fill up Holes and Pits not found useful, and fence off those that may be useful.

And be it Enacted, That if, by reason of the searching for, digging or getting any materials as aforesaid, any pit or hole be made in any common or other Land wherein such materials shall be found, the Trustees shall forthwith, where the same shall be necessary for the safety or security of the public, or if the proprietor or occupier shall so require, cause the same to be sufficiently fenced off during such time as the said pit or hole shall be used, and shall, within Six Days after having dug up sufficient materials, if such pit or hole is not likely to be further useful, cause the same to be filled up, sloped down or fenced off, and so continued; and if the same is likely to be further useful, the Trustees shall cause the same to be sufficiently secured by posts and rails, or other fences, so as to prevent accidents to cattle or persons.

47. Power to Trustees to make Drains through Land not proposed to be drained, Compensation being made for Damage done.

And be it Enacted, That if it shall be necessary for improving the outfall of any Land, or for the purpose of carrying off water from any Land to be drained or improved, or from any new cut or drain to be made, scoured out or enlarged, under the authority of this Act, to scour out, widen or enlarge any river or drain, not included in the maps or plans approved or allowed by the Commissioners as aforesaid, it shall be lawful for the Trustees, with the approbation of the Commissioners, to enter upon Land not included in such maps or plans, and to scour out, widen, straighten or enlarge such river or drain, due compensation being made by the Trustees for any damage done thereby, to be ascertained in such manner as any other compensation is hereinafter directed to be ascertained, subject to the provisions hereinafter contained for the entry upon any lands under the jurisdiction of any Board of Trustees elected under this Act, or of any Commissioners of Sewers, or any Trustees or Commissioners appointed under any local or private Act of Parliament for sewers, drainage, warping, irrigation or embankment.

48. Trustees authorized to enforce the cleansing of Drains, &c.

And be it Enacted, That where any person shall be liable, by prescription or otherwise, to scour out or cleanse any drain, sewer, watercourse or river lying below or between or in any Lands declared to be a drainage or other district, by virtue of this Act, or the outfall thereof, the Trustees of such drainage or other district or their Surveyor may require such person to scour out and cleanse the same; and in case such person shall neglect, within Fourteen Days after notice in writing given to him, or to the tenant of the Land in respect of which such liability exists, or left at the usual abode of such person or tenant, to cleanse any such drain, sewer, watercourse or river, to the full and proper width and depth, the Trustees may cause the same to be well and sufficiently cleansed and scoured out, and they are hereby empowered, by warrant under their hands and seals, to cause the sum of money expended in so doing to be levied by distress and sale of the goods and chattels of such tenant, together with the charges attending such distress and sale.

49. If Cuts be made which shall injure Roads or Bridges, other Roadways and Bridges to be made.

And be it Enacted, That no turnpike-road shall be altered or diverted without such consent, and no public road or way shall be stopped up, diverted or altered under the authority of this Act without such notice as hereinafter provided; and if by any cut, drain or other works made under the authority of this Act, any private or occupation road or way shall be disturbed or interrupted, or any land intersected in such manner as to render the future occupation thereof less convenient or profitable, the Trustees shall, if the same shall appear to the Commissioners to be necessary, cause other convenient roads or ways to be made, and any bridges which may be required to be properly built, for the use of the persons entitled to use such road or way, or for the convenience of the parties entitled to the use and occupation of any land intersected in manner aforesaid, and to defray the expense of making such road or way, and of erecting such bridges, out of the monies to be received by virtue of this Act: Provided always, That it shall be lawful for the Trustees, if they shall think fit, to contract and agree with the said persons or parties, or any of them, for the making of such roads or ways, or the building such bridges by the said persons or parties or any of them, and to pay the sum contracted and agreed to be paid out of the monies to be received by virtue of this Act: Provided always, That in case the Trustees shall be able to agree with the persons interested in such roads, ways or bridges for compensation in respect of the damage occasioned in relation to the same, it shall be lawful for them so to do.

50. Where the existing Bridges, Culverts or Archways are insufficient for the dis-

And be it Enacted, That if any existing bridge, culvert or archway for the discharge of water under any public road shall, in the opinion of the Trustees of any drainage or other district, be insufficient for the free discharge of such water, and shall, by reason of such insufficiency, cause

cause or tend to cause the flooding of or other injury to any of the Lands included in their district, it shall be lawful for the Trustees to have the same altered, enlarged or reconstructed in such manner as to them shall appear sufficient, and to defray the expense by a special rate on the proprietors of the Land benefited by such alteration, enlargement or reconstruction, and thenceforth such bridges, culverts, archways and roads shall be repaired and maintained by such parties as were heretofore liable to repair and maintain the same.

charge of Water under a public Road, same may be reconstructed by the Trustees.

51. Trustees to provide in Dams and Weirs for the migration of Salmon, Trout and Eels.

And be it Enacted, That in the construction, alteration or remodelling of any dams, weirs or other works in the bed of any river to be altered by any Trustees under the powers of this Act, it shall and may be lawful for such Trustees, under the directions or by the allowance of the Commissioners, so to construct, alter or remodel the same as to provide sufficient means in some part of the river for the free and uninterrupted passage of salmon, trout, eels and other fish, both up and down such river.

52. Works not to injure any ornamental Water, nor the Supply of Water to Towns, nor to encroach upon Parks, &c.

And be it Enacted, That nothing herein contained shall authorize or enable the Trustees to interfere with ornamental water in any private pleasure-ground or park, without the previous consent in writing of the owner and occupier thereof, or of their respective guardian or committee in case of infancy or lunacy; nor to curtail or cut off the supply of water to any town without previously making adequate provision in lieu thereof; nor to encroach, by their works or otherwise, upon any park, garden or pleasure-ground, without the consent in writing of the owner and occupier thereof, any direction or allowance of the Commissioners notwithstanding.

53. Trustees may purchase Land for the purposes of the Act.

And be it Enacted, That it shall be lawful for any Trustees elected under this Act to purchase any Lands which the Commissioners shall direct and allow them to purchase for accomplishing any of the purposes of this Act, for which they shall have been appointted Trustees, making such reasonable satisfaction and recompense to the person entitled to or interested in such Land as shall be settled and ascertained in manner hereinafter mentioned.

54. When Lands cut through shall be less than an Acre in quantity, or less than Fifteen Yards wide, Trustees to purchase the whole, if required.

And be it Enacted, That if in the execution of any of the works authorized by this Act any field, close or parcel of land shall be cut through or divided from the remainder of any estate, farm or property, so that there shall be left on each or either side of the said works or any of them less than One statute Acre in quantity, or less than Fifteen Yards in breadth, then and in every such case the Trustees shall (if thereunto required by the proprietor of such field, close or other land so cut through or divided) take and purchase such piece or parcel or pieces or parcels so to be left as aforesaid of such

field, close or land, and shall pay for the same in the same manner as for the land actually required for the purposes of this Act.

55. Notices to be given to Proprietors of Land required for or likely to be affected by the proposed Works, requiring them to furnish to Commissioners their claims.

And be it Enacted, That the Commissioners shall cause notices in writing to be delivered to or left at the usual places of abode of the proprietors and occupiers, or reputed proprietors and occupiers, where the same may be known to the Commissioners, of and in all such Land as may be required to be taken for or be liable to be affected by the works proposed to be made under this Act, requiring such proprietors, occupiers and other persons to prefer their respective claims before such Commissioners for the value of such Land, or the compensation to be allowed for any damage or injury thereto, and specifying therein a time and place at which the Commissioners or an Assistant Commissioner shall hold a meeting for inquiring into all such claims, and shall also, Thirty Days at least before making the inquiry, examination, assessment and award hereinafter next mentioned, cause a copy of such notice to be published in Three successive publications of some newspaper circulating in the county or counties in which such Land as aforesaid shall be situated.

56. Corporations, Trustees, and other Persons empowered to sell and convey, &c.

And be it Enacted, That it shall be lawful for every corporation, and for every trustee and feoffee in trust for charitable or other purposes, and for every executor and administrator, not only for and on behalf of himself, his heirs, executors and administrators respectively, but also for and on behalf of his cestuique trust, whether infant, feme covert, idiot, lunatic, or person not born or not ascertained, or any other person whomsoever, and to and for any tenant in tail, although restrained from barring his estate tail, and to and for any tenant for life, or for years absolute or determinable on any life or lives, and every person having any other partial or qualified estate or interest in any Land required to be purchased for any of the purposes of this Act, or injuriously affected by any such works as aforesaid, not only for and on behalf of himself, his heirs, executors, administrators and issue, but also for and on behalf of the person entitled in remainder, reversion, expectancy or contingency, or for any other future estate or interest, where such person or any of such persons (if more than one), whether entitled to the next or any subsequent estate or interest, or any part thereof, shall not be ascertained, or shall be incapable of contracting for, selling or conveying the same, and to and for every guardian on behalf of his respective ward, husband on behalf of his respective wife, committee on behalf of the person of whose estate he shall be committee, and the heirs, executors, administrators and issue of such ward, wife or person respectively, and to and for any feme covert entitled in her own right to any such Land, or to right of dower or other interest therein, on behalf not only of herself, but also of her respective heirs, executors, administrators and issue, and also where such ward, wife,

person

person or feme covert respectively shall be tenant for life or in tail, or for years, or have any other partial or qualified estate or interest, to and for such guardian, husband, committee and feme covert, on behalf of the person or persons on behalf of whom such ward, wife, person or feme covert respectively, if of full age, unmarried and of sound mind, might have contracted for, sold and conveyed the same Land, and to and for every other person whomsoever who is or shall be seised or possessed of or interested in any such Land, to contract or agree for the absolute sale or exchange thereof, and of every or any part thereof, to the Trustees of any drainage or other district, or the Trustees elected for any other purpose under this Act, or to contract for the amount of compensation which shall be paid for any injury thereto, or for the payment of such sum of money for equality of exchange, as shall be determined by the Commissioners, and also to execute any conveyance or enter into any contract with respect to the premises which the Commissioners shall deem necessary for the due execution of this Act; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual, and all monies payable in respect thereof by the Trustees of any drainage or other district, or elected for any other purpose as aforesaid, shall be paid by such Trustees out of the monies to be raised by them, by virtue of this Act, as aforesaid.

57. Provisions as to Lands of the Crown and Duchy of Cornwall.

And be it Enacted, That as to any Land or interest in Land which may be vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests and Land Revenue for the time being, or in case such Land shall be so vested in Her Majesty in right of Her Duchy of Lancaster, the Chancellor of the Duchy of Lancaster for the time being, and as to any Land or interest in Land vested in the Duke of Cornwall, the Chancellor of the Duchy of Cornwall for the time being, shall respectively have all the powers of contracting, agreeing, selling, conveying and assuring by this Act given to persons seised or possessed of or interested in Land, and for all assents, consents and other the purposes of this Act, shall be deemed proprietors of such respective Lands and interests.

58. Form of Conveyance.

And be it Enacted, That all conveyances which shall be executed to such Trustees of any Land which shall be required by them for any of the purposes of this Act, may be in the following Form, or as near thereto as the number of parties and the nature of the case will admit; namely,

"I, of in consideration of the sum of paid to [or, paid into the Bank of England, as the case may be,] by the

the Trustees of the drainage district, or the Trustees for [set forth the purpose for which they are elected, according to the Declaration of the Commissioners] appointed under an Act passed in the year of the reign of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], do hereby grant and release to the said Trustees all [describing the premises], together with all ways, rights and appurtenances thereunto belonging, and all estates, rights and interests in the same and every part thereof; to hold to the said Trustees and their successors for ever, according to the true intent and meaning of said Act. In witness whereof I have hereunto set my hand and seal this day of in the year of our Lord One thousand eight hundred and ."

59. Satisfaction to be made, and may be accepted.

And be it Enacted, That every corporation, and every trustee and other person hereinbefore capacitated to contract for, sell and convey any such Land as aforesaid, and any other owner of any such Land, or of any share, estate or interest therein, may accept and receive such satisfaction and recompense for the value thereof; and such corporation, trustee, person or owner, and also any tenant for a year, or from year to year, or at will, or other occupier of any Land, entitled to such compensation for such injury or damage as shall be sustained on account of the execution of this Act, or in anywise relating thereto, may accept and receive such sum of money in respect thereof as shall be agreed upon between him respectively and the Trustees elected under this Act, who shall be authorized to take the Land so to be sold and conveyed, or who shall have caused such injury or damage; and in case such Trustees and the said party interested in such Land, or sustaining such injury or damage, cannot or do not agree as to the amount or value of such satisfaction, recompense or compensation, the same respectively shall be ascertained and settled in manner hereinafter directed.

60. Commissioners empowered to assess the value.

And be it Enacted, That if any such corporation, trustee or other person interested in or hereinbefore authorized to contract for, sell and convey any such Land as aforesaid shall neglect or refuse to treat, or shall not agree with the Trustees elected under this Act, or, by reason of absence or disability, cannot agree, or cannot be found or known, or shall not prove a clear title to the Land, or to the estate or interest which he shall claim therein, to the satisfaction of the Trustees elected under this Act, or in case any such corporation or trustee or other person sustaining any such injury or damage as aforesaid shall not accept such satisfaction or recompense for the same as shall be offered

offered by the Trustees elected under this Act, for the space of Thirty Days, after notice in writing given to the principal officer or officers of such corporation, or to such Trustee or person respectively, or left at his respective place of abode, or at the house of the tenant or occupier of such Land intended to be purchased, taken or used for any of the purposes of this Act as aforesaid, then and in every such case the Commissioners are hereby empowered, upon the request of the said Trustees, and at a time and place to be specified by a notice to be given or left as last aforesaid, to inquire and examine, and assess and award the sum of money to be paid for the purchase of such Land, or the recompense or satisfaction to be made for damage that may or shall be sustained as aforesaid, and to settle and ascertain in what proportions the sum so awarded shall be paid to the several persons interested in such Land, or in any charge, lien or incumbrance thereon, and what abatements (if any) shall be made in the rents payable out of the Land named or described in such award, or any Land held under the same lease or agreement in conjunction therewith; and the Commissioners shall award such purchase-money or recompense so to be assessed; and the Commissioners shall and may in such award name or describe the persons (if known to the Commissioners) to whom respectively the sum mentioned therein shall be paid, and in what proportions the same shall be paid to and among such persons where more than One, and the Land, naming or describing the same, in respect of which such sum has been so awarded, and also what abatements (if any) shall be made in the rents payable out of the Land named and described in such award, or any Land held under the same lease or agreement in conjunction therewith; and the Commissioners shall notify and appoint a time and place for holding a meeting for the confirmation of their said award, by themselves or an Assistant Commissioner, and shall attend at such time and place, and at such meeting, or at some adjournment thereof, proceed to consider each case, and hear all objections which may be made thereto by any person whatsoever, and receive all such evidence as they shall find pertinent and proper, and amend or confirm and settle each such award accordingly; and such award shall be conclusive and binding upon The Queen s most Excellent Majesty, and on the Trustees elected under this Act, and on all other persons interested, except in the case and subject to the provisions hereinafter contained.

61. Clause (N.) Differences as to Damages.

And be it Enacted, That where any person dissatisfied with the compensation awarded in respect of Land purchased, taken or used for the purposes of this Act, or with such other matter in the award of the Commissioners as hereinbefore provided for, shall require that the matter in difference be determined by the verdict of a jury, and

moreover that in every other case not hereinbefore provided for, where any person shall think himself aggrieved by any thing done by virtue of this Act, and shall, within One calendar Month after the cause of complaint shall have arisen, give notice to the Commissioners and also to the Trustees or other persons, if any, against whom such cause of complaint shall be alleged, and shall require that the matter in dispute be determined by a jury, then and in every such case the Commissioners shall and they are hereby required from time to time to issue a warrant under their hands and seal to the Sheriff of the county in which the Lands in question shall be situate, or the alleged cause of complaint shall arise; or in case such Sheriff or his Under-Sheriff shall be in any way interested in the matter in question, then to any of the Coroners of such county not interested as aforesaid, or if all the Coroners shall be so interested, then to some person then living in the county, and free from personal disability, who shall have filled the office of Sheriff or Coroner in the said county, and not interested as aforesaid (a person having more recently served either office being always preferred), commanding such Sheriff or Coroner or other person to impannel, summon and return, and the said Sheriff, Coroner or other person is hereby accordingly empowered and required to impannel, summon and return a Jury of at least Eighteen sufficient and indifferent men, qualified according to the laws of this realm to be returned for trials of issues in Her Majesty's Courts of Record at Westminster, and the persons so to be impanneled, summoned and returned are hereby required to appear before the said Sheriff, Under-Sheriff, Coroner or other person, at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged, and out of such persons so to be impanneled, summoned and returned, a Jury of Twelve men shall be drawn by the said Sheriff, Under-Sheriff, or Coroner or other person, or by some person to be by them respectively appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such Sheriff, Under-Sheriff, Coroner or other person shall return other honest and indifferent men of the standers by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid) to make up the said Jury to the number of Twelve, and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Sheriff, Under-Sheriff, Coroner or other person is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matters in question, and may authorize or order the said Jury, or any Six or more of them, to view the place or matter in controversy; and such

Jury

Jury shall, upon their oaths, or, being Quakers, upon their affirmations (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Sheriff, Under-Sheriff, Coroner or other person is hereby empowered and required to administer, inquire of, assess and give a verdict for the sum of money to be paid by way of purchase or satisfaction, or the sum of money (if any) which shall be found payable in respect of damage done to the person so considering himself aggrieved as aforesaid; and the said Sheriff, Under-Sheriff, Coroner or other person shall accordingly give judgment for such purchase or other money as shall be assessed by such Jury, which said verdict, and the judgment thereon to be pronounced as aforesaid, shall be binding and conclusive to all intents and purposes upon all corporations and persons whatsoever.

62. Clause (O.) Verdicts to be recorded.

And be it Enacted, That the said verdicts and judgments, being first signed by the said Sheriff, Under-Sheriff, Coroner or other person presiding at the taking of such verdict and pronouncing of such judgment respectively, shall be kept by the Clerk of the Peace for the county or place in which the matter of dispute shall have arisen among the records, and shall be deemed and taken to be records to all intents and purposes; and the same, or true copies thereof, shall be allowed to be good evidence in all courts whatsoever; and all persons shall have liberty to inspect the same, paying for such inspection the sum of One Shilling, and also to take or make copies thereof, paying for every copy after the rate of Sixpence for every One hundred Words.

63. Clause (P.) Penalties on Sheriffs, &c., making default.

And be it Enacted, That if any such Sheriff or his Under-Sheriff, or any Coroner or other person hereinbefore authorized and directed to act in the stead of such Sheriff, shall make default in the premises, he shall for every such offence forfeit and pay the sum of Fifty Pounds; and if any person so summoned and returned upon any such jury as aforesaid shall not appear, or, appearing, shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act, or if any person so summoned to give evidence as aforesaid shall not appear, on being paid or tendered a reasonable sum for his costs and expenses, or, appearing, shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse (to be judged of and determined by the said Sheriff, Under-Sheriff, Coroner or other person), shall forfeit and pay for every such offence, for the benefit of the party for whom or on whose account such jury or witness shall have been summoned, any sum not exceeding Ten Pounds; all which said penalties and forfeitures shall and may be levied by virtue of a warrant under the hand and seal of any Justice of

 Pounds;

the Peace for the county or place in which the said lands shall be situate, or the said inquisition shall be held, by distress and sale of the goods and chattels of the person so offending, rendering to him, on demand, the overplus of the money thereby produced (if any), after such penalty, and the charges and expenses of such distress and sale shall have been deducted.

64. Clause (Q.) Juries to be subject to regulations of Juries as in Courts at Westminster.

And be it Enacted, That every such jury and juryman as aforesaid shall also be subject to the same regulations, pains and penalties, as if such jury and juryman had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster; and all persons who, in any examination to be taken by virtue of this Act upon their oath, or, being Quakers, upon their affirmation, shall wilfully and corruptly give false evidence before any such Jury, Sheriff, Under-Sheriff, Coroner or other person, or before any Justice of the Peace, acting as such in the execution of this Act, shall and may be prosecuted for the same, and upon conviction thereof shall be subject to the pains and penalties to which persons guilty of wilful or corrupt Perjury shall or may by law be subject.

65. Clause (R.) Costs of the Jury.

And be it Enacted, That in every case in which the verdict of a jury shall be given for a greater sum than shall have been previously ordered to be paid by the Commissioners, or offered or tendered to be paid for the purchase of any lands, to be used or taken for the purposes of this Act, or as compensation or satisfaction for any damage or loss which may have happened or arisen in the execution of any of the powers hereby granted, all the costs of summoning such Jury and the expenses of witnesses shall be defrayed by the Trustees or persons liable to pay such purchase money, or to make such compensation or satisfaction as aforesaid; and such costs and expenses shall be settled and determined by the said Sheriff, Under-Sheriff, Coroner or other person as aforesaid; and in case such costs and expenses shall not be paid to the party entitled to receive the same, within Thirty Days after the same shall have been demanded, then the same shall and may be levied and recovered by distress and sale of any goods or chattels of the said Trustees, under a warrant, to be issued for that purpose, by any Justice of the Peace for the county or place where such inquisition shall be held not interested in the matter in question, which warrant such Justice is hereby authorized to issue under his hand and seal, on application made to him for that purpose, by any party entitled to receive such costs and expenses; but if the verdict of the jury shall be given for the same or for a less sum than shall have been ordered to be paid by the Commissioners, or offered or tendered to be paid as aforesaid, the said costs and expenses shall be defrayed by the party demanding the jury

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in manner hereinbefore mentioned, and shall and may be deducted out of the money adjudged to be paid to such party, as so much money advanced to and for his use; and the payment or tender of the remainder of the money so adjudged shall be deemed and taken, to all intents and purposes, to be a good payment or tender in satisfaction of the whole thereof.

66. Clause (S.) Security for Costs.

And be it Enacted, That all parties who shall require a Jury to be summoned as aforesaid, shall, at their own costs, before the said Commissioners shall be obliged to issue their warrant for the summoning of such Jury, enter into a bond with Two sufficient sureties to the Commissioners, in a penalty of One hundred Pounds, to prosecute their complaint, and to bear and pay their proportion of the costs and expenses of summoning and returning such Jury and taking such verdict, and of the summoning and attendance of witnesses, in case any part of such costs and expenses shall fall upon them.

67. Application of Compensation-money when amounting to or exceeding 200 *l.*

And be it Enacted, That if any money shall be adjudged or awarded to be paid for any Land purchased, taken or used by virtue of the powers of this Act, or as compensation for any damage or injury to any Land which shall belong to any corporation, not legally and equitably entitled to sell and dispose of such Land otherwise than by virtue of this Act, or to any trustee or feoffee, executor or administrator, or any husband, guardian or committee for or on behalf of any feme covert, infant, idiot or lunatic, or to a tenant for life, a tenant in tail restrained from barring his estate tail, or any person who shall have no power to give a valid receipt for the same, or to sell or convey the same Land, otherwise than by virtue of this Act, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there ex parte the Commissioners, and without fee or reward; and shall, when so paid in, there remain until the same shall, by order of the said Court, made upon a Petition to be preferred to the said Court in a summary way by the person who would have been entitled to the rents and profits of the said Land, be applied in or towards the discharge of any such debt or other incumbrance affecting the same Land, or any other Land or Property standing settled therewith to the same or the like uses, trusts, intents and purposes as the said Court of Chancery shall authorize to be paid, or such part thereof as shall be necessary; or the same money shall, upon the like application, in a summary way, be laid out, by order of the said Court, in the purchase of other Land, which shall be conveyed, limited and settled to, for and upon such and the like

uses, trusts, intents and purposes, and in the same manner as the Land which shall be so purchased, taken or used, or damaged or injured as aforesaid, stood settled or limited, or such of them as shall be then existing undetermined or capable of taking effect; and in the meantime and until such order can be obtained, the said money may, by order of the said Court, upon application thereto, be invested by the said Accountant-General, in his name, in the purchase of any stocks, funds or annuities transferable at the Bank of England; and in the meantime, and until the said stocks, funds or annuities shall be sold by order of the said Court for the purpose aforesaid, the dividends or annual produce thereof shall from time to time be paid to the person who would for the time being have been entitled to the rents and profits of such Land so to be purchased, conveyed and settled.

68. When less than 200 *l.* and amounting to or exceeding 20 *l.*

Provided always, and be it Enacted, That if any money so adjudged or awarded to be paid for any Land purchased, taken or used for the purposes aforesaid, or damaged or injured as aforesaid, belonging to any corporation or to any person as last aforesaid, shall be less than the sum of Two hundred Pounds, and shall amount to or exceed the sum of Twenty Pounds, then and in all such cases the same shall, at the option of the person for the time being entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, or of his guardian or committee, in case of infancy, lunacy or other incapacity, to be signified in writing under their common seal or respective hands (as the case may require), be paid into the Bank of England in the name and with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in the manner hereinbefore directed; or otherwise the same may be paid, at the like option, to Two or more trustees, to be nominated by the person who for the time being would be entitled to the rents and profits of the Land so to be purchased, taken or used, or damaged or injured as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands or common seal of the nominating and approving parties; and the monies so paid to such trustees, and the dividends and produce arising thereon, may be applied by such trustees in like manner as is hereinbefore directed with respect to the money so to be paid into the Bank of England, without being required to obtain any order of the Court of Chancery touching the application thereof.

69. When less than 20 *l.*

Provided also, and be it Enacted, That if any money so adjudged or awarded to be paid as hereinbefore mentioned shall be less than Twenty Pounds, then and in every such case the same shall be paid to the

the person who would for the time being have been entitled to the rents and profits of the Land so purchased, taken or used, or damaged or injured, for the purposes of this Act, for his own use and benefit, or in case of infancy or lunacy or other incapacity, then to the person acting as guardian, committee or trustee of such person, to and for the use and benefit of the person entitled thereto.

70. The Court may order reasonable expenses of Purchases to be paid by the Trustees.

And be it Enacted, That where, by reason of any disability or incapacity of any party entitled to any Land to be taken, purchased or used, or in respect of which any compensation or satisfaction shall be payable by any Trustees elected under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England, to be applied in the purchase of other Land, to be settled to the like uses, in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all such purchases, or so much of such expenses as the said Court shall deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by such Trustees out of the monies to be received by virtue of this Act; and such Trustees shall from time to time pay such sums of money for such purposes as the said Court shall direct.

71. Premises to vest in the Trustees, upon payment into Bank of the Money agreed upon or assessed, when Conveyances cannot be obtained.

And be it Enacted, That if any corporation or person seised or possessed of or having any estate or interest in any such Land as aforesaid, cannot be found, or shall not be known, or shall not prove a good title to such Land to the satisfaction of the Trustees or any person authorized by them, or shall refuse to execute a conveyance thereof, then and in every such case it shall be lawful for the Trustees to pay such sum of money as shall have been contracted and agreed, or shall have been awarded in manner aforesaid to be paid for the purchase or for the value of such Land or of any interest therein into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to be placed to his account to the credit of the party interested in the said Land (describing such Land), subject to the order, control and disposition of the said Court, which said Court, on the application of any corporation, or person interested in such sum of money or any part thereof, by motion or petition, in a summary way may order the same to be laid out and invested in the public funds, and to order distribution thereof, and order payment of the dividends thereof, according to the respective estate, title or interest of the corporation or person making claim thereto, and to make such other order in the premises as to the said Court shall seem just and reasonable; and the Cashier of the Bank of England who shall receive such sum of money, is hereby required to give a receipt for such sum of money; and upon payment

ment of such sum of money into the Bank as lastly hereinbefore is mentioned, the Land for the purchase or for the value of which the same shall have been agreed and awarded to be paid, and the fee-simple and inheritance thereof, or other the interest therein, for which such money shall have been contracted and agreed or awarded to be paid as aforesaid, shall vest in the Trustees, and they shall be deemed in law to be in the actual seisin or possession thereof, to all intents and purposes whatsoever, as fully and effectually as if every corporation or person having any estate in such Land, or having such interest therein as the case may be, had been competent to convey and had actually conveyed the same.

72. In case of questionable Title of Persons in Possession.

Provided always, and be it Enacted, That where any question shall arise touching the title of any person to any money which shall be paid into the Bank of England in the name and with the privity of the Accountant-General of the said Court of Chancery in pursuance of this Act, for the purchase of any Land to be taken or purchased in pursuance of this Act, or to any Bank Annuities or Government Securities, the person who shall have been in possession of such Land at the time of such purchase, and all persons claiming under such person or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such Land, until the contrary shall be shown to the satisfaction of the said Court; and the dividends or interest of the Stock, Funds and Annuities to be purchased with such money, and also the capital of such Stock, Funds and Annuities, shall be paid, applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such Land or to some estate therein.

73. Estate of Mortgagees to be vested in Trustees on payment of principal and interest;

And be it Enacted, That if any person shall have any mortgage, or be entitled to any sum of money charged on any Land taken or purchased under this Act, then, on payment of the principal and interest due thereon, or in case a part only of any Land subject to such charge or mortgage be so taken or purchased, then a proportionate share of such principal and interest (to be ascertained, in case of dispute or non-acceptance in the manner hereinbefore provided for ascertaining the value of Land taken or purchased for the purposes of this Act) to such mortgagee or person entitled thereto, or into the Bank of England, in the name and with the privity of the Accountant-General of the said Court of Chancery, to the credit of the mortgagee or other person entitled thereto, all the estate of the said mortgagee or other person, and of every person in trust for him, in the Land or the portion of Land so taken or purchased shall vest in the Trustees, and they shall be deemed to be

be in the actual possession thereof, free from the same mortgage or charge, to all intents and purposes whatsoever: Provided always, That if the money and interest due in respect of any mortgage or charge on any Land purchased or taken under this Act, shall amount to more than the value of the premises charged therewith, or such of them or of such part thereof as shall be purchased or taken under this Act, then, upon payment to such mortgagee or person, or into the Bank in manner hereinbefore mentioned, of the sum to be ascertained as the value of the estate or interest so mortgaged or charged on the Land or part thereof so to be taken and purchased as aforesaid, all the estate of the said mortgagee or person as aforesaid, and of every person in trust for him in the said Land or any part thereof, the value whereof shall have been so ascertained and paid as aforesaid, shall vest in the Trustees, and they shall be deemed to be in the actual possession of the said Lands, to all intents and purposes whatsoever, freed from such mortgage or charge as aforesaid; and the mortgagor or other person entitled to redeem shall be and is hereby barred and foreclosed from all right and equity of redemption of and in the same Land or portion of Land.

or if such principal and interest exceed the value of the Property, then on payment of the value.

74. And be it Enacted, That when any rent, or any such charge, incumbrance or lien as aforesaid, shall also be payable out of, or extend over and be a charge, incumbrance or lien on any Lands, other than those which shall be taken or injured by or conveyed to or vested in the said Trustees, then and in such case neither this Act nor any conveyance so made as aforesaid shall in any respect discharge, affect or alter the validity or effect of such charge, rent, incumbrance or lien, or of the residue remaining unpaid or unsatisfied thereof, so far as relates to such other lands, tenements or hereditaments, but that as to all such the same and all conditions and collateral remedies for recovering payment thereof shall respectively continue, be good, valid and subsisting, subject nevertheless to such reduction of rent (if any) as may be made in respect of such Lands under the provisions herein contained.

Lien shall remain on Premises not conveyed in proportions.

75. And be it Enacted, That upon payment into the Bank of England as herein directed, or upon payment or legal tender of any such sum of money as shall have been contracted for between the parties, or awarded or adjudged in manner aforesaid, for the purchase of any Land, or as a compensation for damages as herein mentioned, to the proprietor of such Land, or to such person as shall be entitled thereto under any of the provisions herein contained, it shall be lawful for the Trustees, or their agents, workmen or servants, immediately to enter upon and use such Land.

Power to enter and take possession of Land, &c. on payment or tender of Purchase-money.

76. Trustees may forego the taking of any Land on serving a notice, within Six Months from the time of contract or adjudication, that the same will not be required.

Provided always, and be it Enacted, That if it shall seem expedient to the Trustees, at any time or times within Six Months after any adjudication or contract shall be made, given or entered into under the provisions of this Act, not to take or injure the whole or any part of any Land or other matters or things named or described in such adjudication or contract, it shall be lawful for the Trustees to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said adjudication or contract to be interested in such Land or other matters or things, stating that the same, and what part thereof, will not be taken for or injured by any thing to be done under this Act; and the adjudication or contract mentioned in the said notice, or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the Trustees), shall be void; and in case a part only of any adjudication or contract shall become void as aforesaid, the said Commissioners shall, on the application of the Trustees or of any persons interested in the Land, fix and ascertain the portion of the sum mentioned in any such adjudication or contract which should be deducted on account of the part not required to be taken or injured, and if necessary, apportion the residue among the persons entitled thereto; and the said Commissioners shall amend such adjudication or contract accordingly; and such amended adjudication or contract shall have all the force and effect, and shall be subject to the like appeal as any other adjudication or contract under this Act: Provided always, That in all cases where the Trustees shall serve notice that it is not intended to take or injure the whole or any part of such Land, the person or persons interested in such Land, and incurring any loss or expense in consequence of the Trustees having previously required the same, shall be entitled to compensation for such loss and expense; and in case the amount thereof cannot be agreed upon, the same shall be ascertained in the same manner as hereinbefore provided in the case of recompense or satisfaction to be made for damage sustained on account of the execution of this Act.

Proviso.

77. Premises to vest in Trustees in perpetual succession.

And be it Enacted, That all such Lands and hereditaments as shall be conveyed to or vested in the Trustees of any drainage or other district, or to or in any Trustees who shall be elected for any other purpose under the provisions of this Act, shall vest in the Trustees for the time being of such drainage or other district, or in such other Trustees as aforesaid for the time being, as the case may be; and upon the election of any new Trustee or Trustees, such Lands and hereditaments shall, upon such election, vest in such new Trustee or Trustees jointly with the continuing Trustee or Trustees, or in case there shall be no continuing Trustee, in the new Trustees only, without any conveyance for that purpose.

And

78. If the Trustees make any new site for a Mill or Factory, the same shall vest in them for the purposes of this Act.

And be it Enacted, That whenever in executing any of the works which they are authorized to execute under this Act, the Trustees shall be enabled to make any new site for a mill or factory, such new site may be made by the Trustees, if they shall think fit; and the same, with the water-power thereof, shall be absolutely vested in the Trustees and their successors for ever, in trust, for the purposes of this Act, and in order that the same may be sold: Provided always, That the making of such new site for any mill or factory shall not prejudice or injure the supply of water to or discharge of water from any existing mill or factory.

79. Trustees to sell Lands and Mills, making first offers to the Proprietors of the estate.

And be it Enacted, That the Trustees of any drainage or other district, and such other Trustees as may be elected under this Act, shall from time to time sell and dispose of all or any part of the lands, tenements or hereditaments, mills, buildings or erections, weirs, mill-dams, water-courses and mill-sites which shall become vested in them respectively under any of the provisions aforesaid, and which shall not be required to be retained for any of the purposes of this Act; and the produce of such sale or other disposition shall be applied in payment of the expenses or debts contracted on account of the expenses of the works executed by such respective Trustees: Provided always, That such Trustees, before they shall sell or dispose of any of the premises aforesaid, shall give notice by advertisement, published for Two successive weeks in some newspaper circulated in the county where such premises shall be situate, of their intention to sell the same, and shall offer the same, in the first place, to the proprietor of the estate to which the same originally belonged, and then to the person whose estate shall adjoin thereto, or to such one of the persons whose estates shall adjoin thereto, as in case of difference among themselves the Commissioners shall direct, and such persons respectively shall be entitled to a preference or pre-emption, in case such persons respectively shall give notice to the Trustees of their desire to purchase the same within One calendar Month after the last publication of such advertisement; and such premises shall not be sold to any other person at such price as any person so entitled to a preference shall be willing to give, or at any lower price; and if each such person shall refuse to purchase the same, or shall not give notice of his desire within the time aforesaid, an affidavit being made and sworn before a Master Extraordinary in the High Court of Chancery, and filed in the said Court, that such notice by advertisement was given by or on behalf of the said Trustees, and that no person entitled to preference duly availed himself of his right of preference or pre-emption, such affidavit shall in all Courts whatsoever be sufficient evidence and proof that such preference or pre-emption was waived.

80. Application of Monies received by the Trustees.

And be it Enacted, That all sums received by any Trustees elected under the provisions of this Act shall be paid into the Bank of England, to the credit of the said Trustees, and shall be applied towards the expenses of the several works to be executed under this Act, or towards the re-payment of any loan or loans which shall have been or may be made to such Trustees for the execution of the said works under the power in that behalf hereinafter contained, and of all other expenses payable by such Trustees under the provisions of this Act.

81. Trustees may borrow Money for the purposes of this Act.

And be it Enacted, That it shall and may be lawful for the Trustees of any drainage or other district, and for any other Trustees elected under this Act, from time to time as occasion shall require, with the approbation of the Commissioners, to borrow and take up at interest, for any term not exceeding Twenty Years, of and from any person who shall be willing to advance and lend the same, any sum or sums of money required for defraying the costs, charges and expenses incurred or to be incurred by them respectively in the execution of any works for the drainage or improvement of any Land, or of any other works under the authority of this Act; and the repayment of such sum or sums of money, with interest, at a rate not exceeding Five Pounds per centum per annum, shall be secured to the party lending the same upon the monies accruing to the Trustees under the provisions of this Act: Provided, That the sum so borrowed shall be repaid by yearly equal instalments within the term aforesaid.

82. Trustees to grant Certificates to Lenders for principal and interest.

And be it Enacted, That it shall and may be lawful for such Trustees from time to time to grant a security in the form of a certificate under the hands and seals of such Trustees or any Three of them, to every person who shall so advance any sum of money as aforesaid, setting forth the sum for which the several certificates collectively are to be issued, the amount of the sum for which each such certificate is issued, the date of such advance, and the rate of interest payable for the same, and the periods at which the said principal money shall be paid off, in one payment or by instalments, and that every such certificate shall be duly stamped as a mortgage, and shall be stamped with the seal of the Commissioners, in testimony of their approbation thereof, and may be made in the following words, or as near thereto as the circumstances of the case will admit:

Form of Certificate.

"BY virtue of an Act passed in the sixth year of the reign of Her Majesty Queen VICTORIA [here insert the title of this Act], we, the undersigned, being Trustees of the drainage district [or, being Trustees for (set forth the purposes for which they were elected according to the declaration of the Commissioners)], with the approbation

approbation of the Drainage Commissioners for England and Wales, testified by their seal hereunto affixed, in consideration of the sum of Pounds of lawful money of Great Britain to us lent and paid by do hereby certify, that the monies to become payable to us, under the said Act, are hereby charged with the repayment of the said sum of Pounds, being the whole [or part, as the case may be], of the sum of Pounds required to be borrowed for the purpose aforesaid [here insert the period when the money is payable, in one payment, or by instalments, as the case may be], together with interest thereon [or, if the money be payable by instalments, with interest on such part of the said principal money as shall remain unpaid from time to time], at and after the rate of Pounds per centum per annum, until the whole thereof shall be repaid, which sum so lent and advanced by the said was taken up and borrowed by us for the purposes of the said Act. In witness whereof we have hereunto set our hands and seals the day of ."

And the monies mentioned in each such certificate, with the interest thereon, shall be repayable and paid by the Trustees out of the monies which shall come to their hands under this Act, and all persons to whom such certificates shall be given shall be equally entitled (one with the other) to the monies accruing by and under the same charges, according and in proportion to the sums by them respectively lent and advanced as aforesaid, without any preference by reason of the priority of the date of such certificate, or upon any other account whatsoever: Provided always, That nothing herein contained shall be deemed, construed and taken to extend to make the said Trustees or any of them who shall sign or execute any such certificate, personally, or their respective lands or tenements, goods and chattels, liable to the repayment of any of the monies to be borrowed or secured in pursuance of this Act.

83. Loans may be transferred.

And be it Enacted, That every person who shall be entitled to the money secured by any such certificate may transfer his right and interest to the said principal sum and interest money thereby secured to any person by deed, duly stamped; and every such transfer may be in the following words, or words to the like effect:

Form of Transfer.

" I [or, We], A. B. of in consideration of the sum of to me this day paid by C. D. of do hereby transfer

transfer a certain certificate of charge made by the Trustees [describing them], under an Act passed in the year of Her Majesty Queen VICTORIA, intituled [here set forth the title of this Act], to bearing date the day of for securing the sum of and interest, and all my right and title to the principal money thereby secured, and now remaining due thereon, and to all the interest money now due or hereafter to become due, unto said C. D., his, her or their executors, administrators, successors or assigns [as the case may be]. Given under my hand and seal this day of ".

Which transfer shall be produced and certified to the Clerk for the time being of the Trustees before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such Clerk shall make an entry in the books of the said Trustees of the particulars of every such transfer, and sign the same.

84. Power to borrow Money at a lower rate of interest.

Provided always, and be it Enacted, That in case any Trustees from whom money shall be owing on such certificates, can at any time borrow or take up any sum of money at a lower rate of interest than the certificates which for the time being shall be in force shall bear, it shall be lawful for such Trustees to borrow and take up, with the approbation of the Commissioners, from time to time, in manner aforesaid, upon like certificates, at such reduced rate of interest, any sum which may be required to pay off the monies secured by the existing certificates; and the repayment of such new loan shall be secured in like manner upon the monies accruing to such Trustees under the provisions of this Act; and such Trustees shall pay off and discharge the certificates or securities bearing a higher rate of interest accordingly.

85. Money may be borrowed for the purposes of this Act from Commissioners of Public Works.

And be it Enacted, That it shall and may be lawful for the Commissioners acting in the execution of an Act passed in the fifth year of the reign of Her present Majesty, intituled, "An Act to authorize the Advance of Money out of the Consolidated Fund, to a limited Amount, for the carrying on of Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like purposes," and of the Acts therein recited, or any Act or Acts for amending the same respectively; and the said Commissioners are hereby respectively empowered from time to time, out of any funds at their disposal, to lend and advance any sum of money which may be necessary for the purposes of this Act upon the credit of such security as the Trustees under this Act are empowered to give as aforesaid, provided that no advance of money shall be made by the

the said Commissioners for any of the purposes aforesaid, unless with the consent of the Commissioners of Her Majesty's Treasury; and that all such monies so lent and advanced by such Commissioners shall be repaid from and out of the monies accruing under this Act to the Trustees borrowing the same, within such period, either by One payment or by half-yearly instalments of such amount, and with such interest, as the said Commissioners of Her Majesty's Treasury shall direct.

86. Accounts to be kept.

And be it Enacted, That every Board of Trustees under this Act shall cause books to be provided and kept, in which shall be entered true and regular accounts of all sums of money received, paid and expended about any drainage or other work made under the provisions of this Act, and of the several articles, matters and things for which any sum of money shall have been disbursed and paid; which books shall, at all reasonable times, on giving Three clear Days' notice of the intention to apply for an inspection thereof, be open to the inspection of the proprietors and persons interested in the drainage or other work to which such books shall relate, without fee or reward; and such persons may take copies of or extracts from the said books, or any part thereof, without paying for the same.

87. Trustees to account yearly.

And be it Enacted, That Once at least in every year every Board of Trustees shall prepare a true and just account or statement of all sums of money by them received and expended in the execution of any works as aforesaid; and such account or statement, when so made, together with the vouchers relating thereto, shall be preserved by the Clerk of such Board of Trustees, or otherwise as the Commissioners shall direct, and a copy of such account, signed by the Trustees, or Two or more of them, shall be deposited with the Clerk of the Peace of every county in which any part of such district shall be situate, and the same respectively shall be open to public inspection at all reasonable times, on payment of a fee of One Shilling, and any person interested in such works shall be at liberty to take copies thereof or extracts therefrom at all reasonable times, and the said Trustees and Clerk of the Peace shall furnish copies of or extracts from any such account or statements to any persons requiring the same, upon payment of the costs of making such copies or extracts; and every such Board of Trustees shall from time to time transmit copies or extracts from such account to the Commissioners as the Commissioners shall direct.

88. Commissioners to make an Award upon completion of any of the Works.

And be it Enacted, That as soon as conveniently may be after any works for the drainage or improvement of any Land under this Act, or any other works by this Act authorized to be executed, shall have been completed by the Board of Trustees for that purpose authorized

rized under this Act, the Commissioners shall cause such works to be inspected and examined, and shall draw up, or cause to be drawn up, an award or instrument in writing, which shall describe the Land drained or improved as aforesaid, and the works which shall have been so completed; and such award shall also specify the several quantities belonging to the proprietors or reputed proprietors respectively of such Land so drained or improved as aforesaid; and such award shall also specify the amount of the sums which shall have been expended, or for which the Board of Trustees shall have become liable, in and about the works which shall have been so executed for drainage, or improvement, and all expenses incident thereto (including the interest of all borrowed monies, except such interest as shall have been previously paid out of the rates and charges made by the Trustees), and the proportions, except as aforesaid, of such sums payable in respect of the several parcels or portions of the Land drained or improved, towards payment of the total amount of the costs, charges and expenses of such drainage or improvement, or incidental thereto, as principal sums charged on such several parcels or portions of land, and whether the same shall be paid in one sum or by instalments, and if by instalments, then the said award shall also specify the several instalments, and the manner by and in which and by whom such proportions shall be paid, regard being had to the degree of benefit conferred, and the circumstances of each particular case; but so that by such instalments all such sums shall be payable within a term not exceeding Twenty Years from the date of such award; and in the case where any water-power shall be improved by the making of embankments or reservoirs, or any works so completed under the provisions hereinbefore contained, or executed with the consent of the proprietors of mills, factories or works as aforesaid, the said award shall also specify the Lands, mills, factories or works liable under the provisions of this Act to the payment of the expenses of the execution of the works of such improvement, or incidental thereto, and the amount of such expenses, and the proportions thereof with which such Lands, mills, factories or works shall be respectively charged, and whether the same shall be repaid in one sum or by instalments as aforesaid; and the said Commissioners shall also cause to be inserted in every such award all such other determinations, matters and things as the said Commissioners shall think necessary and proper; and the said Commissioners shall also cause to be specified in every such award the proportion in which the Lands and premises so improved as aforesaid, and the proprietors of such Lands and premises in respect thereof respectively for the time being, shall in future be charged by way of annual rate towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing and keeping in repair the several watercourses, sluices, drains, ditches, cuts,

cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, engines, reservoirs, embankments, fences and other works to be executed under this Act, and shall specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid for the year next ensuing the date of such award; and all monies payable under every such award shall be payable to the Board of Trustees authorized to execute and maintain such works as aforesaid, to be by them applied according to the provisions of this Act.

89. CLAUSE (T.) Money may be raised before Award.

Provided always, and be it Enacted, That in case previously to the award it shall appear to the Commissioners that any sums of money ought to be raised on the Land included in any drainage or other district, or on any other Land, subject to be charged or rated under this Act, either by way of charge of principal sums or of annual rates, it shall be lawful for the Commissioners to authorize and empower the Trustees to raise the same accordingly; and in case such sum shall be authorized to be raised by way of charge of principal sums, then the same shall be raised in the manner by this Act directed concerning the principal sums to be charged under the award of the Commissioners; and in case the same shall be authorized to be raised by way of annual rate, the same shall be raised and paid in like manner as by this Act directed concerning the annual rates raisable by the Trustees; and such principal sums and such annual rates respectively shall be charged and levied upon the Land included in such drainage or other district, or other land charged therewith, according to the proportions specified in the declaration of the Commissioners: Provided always, That in case, upon the application of any persons interested in Lands included in such drainage or other district, or other Land liable to be charged under this Act previously to the award of the Commissioners, it shall appear to the Commissioners that the proportions of liability specified in the declaration of the Commissioners, or in any previous order of the Commissioners, ought to be altered or varied, then and in every such case it shall be lawful for the Commissioners, by order under the seal of the said Commissioners, to alter and vary the same accordingly; and moreover, that in case, when such award shall be made by the Commissioners as hereinbefore directed, it shall appear that the portions already paid, in respect of any parcel or portion of Land, of any sums previously raised by way of principal sums or annual rates, shall have been greater or less than the due proportion with which such respective portion or parcel of Land ought to be chargeable, having regard to the benefit derived thereby from such drainage or improvement, it shall be lawful for the Commissioners, in and by their award, to diminish or increase the proportion of charge of such parcel or portion of Land, so as to adjust and remedy the inequality.

90. A Draft of the Award to be printed and published, and a copy deposited with the Clerk of the Peace.

And be it Enacted, That the said Commissioners shall, within One calendar Month next after the making of their said award, cause a draft thereof to be printed, and sold at a price not exceeding Two Shillings and Sixpence for each printed copy thereof, and shall within such calendar Month cause such draft, or a copy thereof, to be deposited with the Clerk of the Peace for every county wherein the Land, or any part thereof, which shall have been drained or improved, or in which such works may be situate; and such Clerk of the Peace is hereby authorized and required to receive the same, and all persons shall have liberty to inspect the same on the payment of One Shilling; and when such draft of the award has been so deposited, the said Commissioners shall cause notice thereof to be inserted Once in each week for Three successive Weeks in some One or more newspapers usually circulated in such district or the vicinity thereof; and the Commissioners shall by such notice require all persons who may desire to lodge objections to the said award, to lodge the same at such place within such district and before such time as shall be specified in the said notice; and the Commissioners shall also in the said notice state that their Assistant Commissioner will proceed to hear any objections which may be lodged, and to settle the award at such time and place in or near such district, as shall be specified in the said notice, such time not to be sooner than Two calendar Months from the first publication of such notice.

Notice thereof to be inserted in Newspapers, requiring Persons objecting thereto to send in their Objections.

91. Assistant Commissioner to hear Objections (if any) to Award.

And be it Enacted, That the Assistant Commissioner shall attend at such time and place as they shall so appoint, and shall examine into the matter of any objection which shall be so lodged to the award, and shall hear all such proper evidence as may be offered to him in respect thereof, and shall report or suggest such alterations (if any) in the said award as he shall think fit, to the Commissioners, and may adjourn such attendance from time to time.

92. Award, to be deposited in the Office of the Commissioners, and to be printed.

And be it Enacted, That every award, when finally settled and signed by the Commissioners, with a proper map or plan annexed thereto, describing the district and the lands therein to which such award shall relate, shall be deposited in the office of the Commissioners; and such award, when so finally settled, shall be binding and conclusive on all parties, and a copy thereof, printed by the King's Printer, with a lithographed copy annexed of the map or plan, shall be evidence, and shall also be evidence that the award was duly made, and that all the requisitions of this Act in relation thereto were complied with.

93. Apportioned Expenses to be charged on Lands.

And be it Enacted, That the respective sums of money which by the award of the said Commissioners shall be specified as the proportions or contributions payable, as principal sums charged in respect of

of the several parcels or portions of Land or premises drained or improved by any works under this Act, to the Board of Trustees by which such works shall have been executed, towards the total amount of the sums expended in and about such drainage or improvement as aforesaid, with interest for such respective sums of money, at a rate not exceeding Five Pounds per centum per annum from the date of such award, shall be charged on such several parcels or portions of Land and premises so drained or improved as aforesaid, and that in preference to and with priority over all incumbrances on such Land, except the tithe-commutation, rent-charges (if any) and any quit or chief rents incident to tenure.

94. In case of non-payment of Money so charged, Trustees may enter into receipt of the rents and mortgage the Land.

And be it Enacted, That if any principal sum of money so charged as aforesaid, or any instalment thereof, or any interest in respect thereof, shall remain unpaid for the space of Three calendar Months next after the time appointed for payment of the same by the said award, then it shall be lawful for the Trustees to whom the same shall be payable, or any person authorized by them, to enter upon the Land charged with or liable to the payment of the sum of money or interest so in arrear, or any part thereof, but subject nevertheless to such tithe-commutation, rent-charges, quit or chief rent (if any) as aforesaid, and the rents and profits of such Land to receive and take until thereby or otherwise the sum and interest so due (together with all costs and expenses attending or occasioned by such entry and receipt of the rents and profits of such Land) shall be fully paid and satisfied; and it shall be lawful for the Court of Chancery, upon the application by Petition of the said Trustees, to appoint a receiver of the rents and profits of such Land, which receiver shall have full power to receive the same rents and profits and apply the same, after deduction of the necessary expenses of the application to the said Court, and of such tithe-commutation, rent-charges, quit or chief rent (if any), in payment of the sum and interest so due, until the same shall be fully paid; and it shall also be lawful for the said Trustees, if they shall so think fit, with the approbation of the Commissioners, to raise such sum and interest, and all costs and expenses attendant thereon, by mortgage of such Land or a competent part thereof, but so that every such sum, with all interest thereon, shall be made payable within a term not exceeding Twenty Years from the date of such award; and every such mortgage made, and every receipt for the consideration-money given by such Trustees or any Two of them, shall be valid and effectual to all intents and purposes whatsoever; and no mortgagee shall be bound to see to the application of his mortgage money, or to inquire whether the mortgage made by the said Trustees, with such approbation as aforesaid, is hereby authorized.

95. Proprietors of less than fee-simple

And be it Enacted, That any person entitled to less than an immediate estate of fee-simple may, with the consent of the Commissioners,

may charge the Expenses on the Land.

charge the Land to which he shall be entitled, and which shall have been drained, or improved, under the provisions of this Act, with the proportion of any principal sum charged on him under the award of such Commissioners, or under any previous order of the Commissioners, or any part thereof, with lawful interest thereon; but so, nevertheless, that the charge upon such Lands or premises shall be lessened in every successive year (to be computed from the date of such award) by the amount of at least One-twentieth part of the whole sum of the instalments charged thereon by the award or order of the Commissioners, and the interest in respect thereof.

96. Clause (U.) Recovery of Annual Rate.

And be it Enacted, That in case any annual rate which shall be made by the Trustees elected under this Act, and which shall be payable in respect of any parcel or portion of land charged therewith under this Act, shall be in arrear or unpaid after the day which may be fixed by the Board of Trustees for payment thereof, and for Thirty Days after the demand thereof, it shall be lawful for any collector, receiver or other person authorized by virtue of any warrant under the hands and seals of Two Justices of the Peace for the county in which said lands are situated, issued upon complaint of the Clerk of the said Trustees, which warrant the said Justices are hereby empowered to issue on the oath of any witness proving that such rate has been demanded of the occupier or tenant of such land, and remains unpaid as aforesaid, to enter into the land or premises, the rates in respect of which shall be so in arrear and unpaid, and levy the sum of money owing in respect of such rates, and all arrears thereof, by distress and sale of the goods and chattels there found, in the same manner as in case of distress for rent reserved on common leases of land for years, rendering the overplus, if any, on demand, to the owner of such goods and chattels, after deducting the costs and charges of taking or making such distress an sale; and in case any land or premises drained or improved by any works under this Act shall at any time hereafter be untenanted or unoccupied, so that no sufficient distress can be found for levying the said annual rates, then the lands chargeable therewith shall always remain a security for payment thereof; and all goods and chattels which shall at any time thereafter be found thereon may be distrained and sold in manner aforesaid, until all arrears of the said rates and the charges of such distress shall be fully paid and satisfied.

97. Clause (V.) Payment of Expenses of the Commissioners

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour of the Assistant Commissioners, and all other persons employed by the Commissioners in or about any declaration of a drainage or other district, and the drainage or improvement of such district, and the proceedings in relation thereto under this Act, by their award in the matter of such drainage or improvement, or

by

by any order under their hands and seal, to order and declare that a sum in such award or order to be mentioned, be paid to the Commissioners, in respect of the proportion of the general expenses of the commission, which ought to be borne in respect of such drainage, improvement or other proceeding; and the Commissioners shall by such award or order direct that such sum be paid to them by the Trustees of such drainage or other district, or the other Trustees elected under this Act, and be raised in like manner as the principal sums charged under this Act, and shall appoint a time for payment thereof; and the same shall be paid to the Commissioners by the Trustees in preference and priority to any other sums to be paid out of the monies to be raised by them under this Act, and until raised shall be the first charge on the Land included in the drainage or other district, or other Land subject to the authorities of such Trustees; and upon any application which shall be made under the provisions hereinafter contained, for the drainage or improvement of Land under this Act, without the intervention of a Board of Trustees, the Commissioners, before they shall authorize the execution of the works proposed for such drainage or improvement, shall require payment to be made to them in respect of the like proportion of the general expenses of the commission in relation to such matter, and shall take security, if they shall think fit, for the payment of any subsequent expenses in the same matter.

98. Tenants paying Monies on account of Landlord, to deduct them from Rent, together with all expenses incurred thereby.

And be it Enacted, That every occupier of any Land who, not being a proprietor thereof within the meaning of this Act, shall pay any sum of money for the Land in his occupation, on account of his landlord, either by way of annual rate or otherwise, under and by virtue of the provisions of this Act, shall and he is hereby authorized to deduct and retain out of his rent the amount of the sum of money which he shall so pay as aforesaid, and the next immediate landlord of such occupier, if not himself a proprietor of such Land within the meaning of this Act, shall and he is hereby authorized to make the like deduction from the rent payable by him, and so on each sub-lessee and sub-lessor of such Land, not being a proprietor thereof within the meaning of this Act, being entitled to deduct the same so charged upon such Land, under or by virtue of this Act, from the rent payable to his next immediate landlord, until such deduction shall be made from the rent payable to a person being a proprietor within the meaning of this Act, who shall not be entitled to make any such deduction from the rent (if any) payable by him; and every such occupier, sub-lessee or sub-lessor paying any such sum of money shall be acquitted and discharged of the sum so paid by him as fully and effectually as if the same had been actually paid to his landlord (except where there shall or may be any lease or agreement to the contrary); but nothing herein contained shall extend or be construed to enable any occupier or lessee to

deduct from his rent any costs or expenses incurred by non-payment of the monies hereby imposed or authorized to be levied.

99. Clause (W.) Works may be executed by Board of Trustees within the jurisdiction of other Trustees, subject to appeal to the Board of Trade.

And be it Enacted, That when any Board of Trustees elected under this Act, or any Commissioners of Sewers, or any Trustees or Commissioners appointed under any local or private Act of Parliament for sewers or drainage, warping, irrigation or embankment, shall, for the purposes or in the execution of their works, be desirous to make any cut or work, or to carry or discharge any water through, or withdraw any water from, any land, river, watercourse or district, subject to the management or jurisdiction, or within the authorities or powers of any other Board of Trustees, or other such Trustees or Commissioners as aforesaid, notice of such desire, together with the plan proposed for such cut or work, or for carrying or discharging or withdrawing such water, shall be given by the Trustees or Commissioners desiring to make such cut or work, or to carry, discharge or withdraw such water, to the Clerk of the Trustees or Commissioners whose land, river, watercourse or district is to be affected thereby; and such last-mentioned Trustees or Commissioners shall, within Three calendar Months after such notice shall have been given, communicate to the Trustees or Commissioners giving such notice, their consent to such plan, or their dissent therefrom, with their objections, if any, thereto; and in case such consent shall be given, then such plan shall be executed by and at the expense of the Trustees or Commissioners proposing the same; but in case the Trustees or Commissioners whose land, river, watercourse or district is proposed to be cut through or affected, shall dissent or object to such plan, and such respective parties shall not agree in relation to such plan within Four calendar Months after notice shall have been given as aforesaid, it shall be lawful for the Trustees or Commissioners proposing such plan, to apply by memorial to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations; and it shall be lawful for the Lords of the said Committee to authorize any proper person to inspect the land, river, watercourse or district proposed to be cut through or affected by the proposed plan, and to consider such plan and the objections thereto, and the evidence in support of such plan and objections respectively, and to report thereon to the Lords of the said Committee, and whether or not the said plan will materially affect the drainage of the said district through which the water is proposed to be carried, and the directions or order of the Lords of the said Committee shall be binding and conclusive on all parties, and shall be obeyed accordingly; and the expense of such plan, and of all surveys and maps made in relation thereto, shall be paid by the Trustees or Commissioners proposing such plan: Provided, That all maps, plans, surveys and levels in the possession of the Trustees or Commissioners whose land, river, watercourse or district shall be proposed to be cut through or affected by such

such plan, shall, at the request of such other Trustees or Commissioners as aforesaid, be produced to them for their information or inspection; and that all the costs and expenses of the application to the Lords of the said Committee, and of the person appointed by the Lords of the said Committee as aforesaid, and of his inspection and examination, or in anywise incident thereto, shall be paid as hereinafter mentioned; (that is to say) in case the Lords of the said Committee shall disallow the objections to such plan, and direct the same to be executed, then such last-mentioned costs and expenses shall be paid by the Trustees or Commissioners proposing the plan, and by the Trustees or Commissioners objecting thereto, in equal moieties; but in case the Lords of the said Committee shall allow the objections to such plan, and direct that the same be not proceeded with, or that the same be varied in accordance with such objections, then such last-mentioned costs and expenses shall be paid wholly by the Trustees or Commissioners proposing such plan as aforesaid.

100. Clause (X.) Application to execute Works without the intervention of Board of Trustees.

And be it Enacted, That it shall be lawful for any person or persons interested in Land capable of being drained or improved by drainage, warping or irrigation, or embankment, who shall be desirous to execute, without the intervention or election of a Board of Trustees, any of the works by this Act authorized to be executed by Boards of Trustees elected under this Act, but shall be unable to execute such works by reason of the objection, absence or disability of any person whose Land may be cut through or affected for the purposes of such works, or by reason of any other impediment which might have been removed by a Board of Trustees elected under this Act, to apply to the Commissioners by memorial, setting forth the circumstances of their case, and the person so applying shall furnish to the Commissioners the like maps, plans and schedules as are hereinbefore required in the case of the memorial to the Commissioners for the execution of this Act firstly hereinbefore provided for; or in case it shall appear to the Commissioners that a correct judgement can be formed on the proposed means of drainage or improvement without a map or plan and estimates, including the whole of the land to which such memorial shall relate, then a map or plan showing only the proposed works, or such other map or plan as the Commissioners shall think necessary; and such memorial or some schedule thereto shall also show the persons by whom the works are proposed to be executed; and the Commissioners shall direct such notices to be given to the persons, not parties to the said application, whose lands are proposed to be cut through or affected for the purposes of such works, as they shall think fit, and shall hear and determine any objections which may be made by such persons or any of them, in the same manner as hereinbefore directed in respect to the proceedings preliminary to the declaration of a drainage district; and may allow or disallow the proposed plan of

the said works, or alter or vary the plan of the proposed works, as they may think fit; and shall and may take such security, or enforce such provision for the compensation of any damage to be done in the execution of such works, and such other provisions or conditions for the protection of persons not parties to such application, as shall be agreeable to the directions hereinbefore provided.

101. Clause (Y.) Commissioners may authorize Works to be so executed.

And be it Enacted, That in case the Commissioners shall approve any such plan either as the same shall have been proposed, or as the same shall have been altered or varied by the Commissioners, and shall think that the same might be fitly executed without the intervention or agency of a Board of Trustees, it shall be lawful for the Commissioners, by any order or declaration, to authorize the persons by whom such application as last aforesaid shall have been made, or any of them, or such person as shall have been named in the memorial in that behalf, or any other person or persons named or described by the Commissioners in any order or declaration, to execute the proposed works according to such plan as shall have been approved as aforesaid, within a time to be limited in such order or declaration; and the person or persons authorized in this behalf by such order or declaration, or any person or persons to be named from time to time in supplementary orders of the Commissioners, shall have the same powers of executing and maintaining the proposed works and the powers auxiliary thereto, as are hereinbefore given to a Board of Trustees elected under the authority of this Act; and all the provisions, clauses, matters and things hereinbefore contained, concerning the compensation for damage, and the purchase of Lands by Boards of Trustees under this Act, shall apply to the compensation for damage and the purchase of Lands by the persons authorized to execute works under the provisions lastly hereinbefore contained; and all Land purchased as last aforesaid, in case the persons interested differ about the same, may be conveyed to any person or persons upon such trusts as the Commissioners may direct.

102. Providing for injury to Roads.

And be it Enacted, That nothing herein contained shall authorize the permanent diversion of any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a meeting called for that purpose, be first obtained; and that before any turnpike-road, or other public road or way, be cut through or rendered impassable in the execution of any works under this Act, the Board of Trustees executing such works shall cause another sufficient road to be set out and made instead thereof, as near thereto as may be, and, unless the public road or way shall be permanently stopped or diverted, shall restore the same to its former line and condition, or as near as circumstances will permit, within Twelve calendar Months after the same shall have been first cut through or rendered impassable: Provided also, That before any public road or way shall be permanently discontinued,

discontinued, diverted, stopped up or altered by any Board of Trustees in the execution of the powers of this Act, they shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be permanently discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Board of Trustees shall also cause the same notice to be given by advertisement, published in some newspaper circulated in the county where such road shall be situated, for Four successive Weeks, and also posted on the church-door, or in some conspicuous place in the parish or extra-parochial place where such road shall be situate, on the Four Sundays of the said Four successive Weeks; and after the said several notices shall have been so given, such road or way shall, from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

103. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within Four Months after the First Sunday on which such notice shall have been given of the intention that such road or way should be permanently discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions of the county in which such road or way, or the greater part thereof, shall be situate, giving to the Trustees Ten Days' notice of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the appellant to be heard in support of such appeal, unless such notice and statement shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

104. Hearing of Appeal.

And be it Enacted, That in case of any such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be permanently discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impanel a Jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if, after hearing the evidence produced before them, the said Jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the appellant to the Trustees; and the same may be taxed by the Clerk of the Peace either at or after such Quarter Sessions, and the amount thereof certified under his hand shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said Jury shall return a verdict, that such road or way is not unnecessary, or that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the

party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be permanently discontinued, stopped up, diverted or altered; and the said Court shall award to the appellant the costs of prosecuting such appeal; and such costs being taxed and certified by the Clerk of the Peace as aforesaid shall be paid by the Trustees out of the monies to be raised under the powers of this Act.

105. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, or the stopping up, discontinuing, diverting, widening or altering of such roads and ways, and the money compensation in respect thereof, shall be paid in such manner as the expenses of any other works to be effected by the Trustees under this Act.

106. Commissioners to settle differences.

And be it Enacted, That if any dispute or difference shall arise between any parties interested or claiming to be interested in any Land to be drained or improved in pursuance of this Act, touching and concerning any boundaries or any other rights and interests which the said parties or any of them shall have or claim to have in or over any such Land, or touching any other matter relating thereto, it shall be lawful for the said Commissioners or an Assistant Commissioner, as well by the examination of witnesses upon oath as upon other proper and sufficient evidence, to inquire, examine into, hear and determine the same, and such determination shall be binding and conclusive upon all parties concerned, for the purpose of this Act, but no further or otherwise.

107. Persons summoned and refusing to give Evidence, to be punished.

And be it Enacted, That it shall be lawful for the Commissioners or any Assistant Commissioner, or for any person appointed by the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations, upon any inquiry or proceeding to be had before them or him under any of the provisions of this Act, to summon and examine upon oath or affirmation (which oath or affirmation the Commissioners and each Assistant Commissioner or person appointed as aforesaid are and is hereby empowered to administer) any person whomsoever; and if any person having been so summoned before the Commissioner or any Assistant Commissioner, or person appointed as aforesaid, to give evidence touching any matter to be inquired into under this Act, and having been paid or tendered a sufficient sum of money, to be ascertained by the Commissioners or Assistant Commissioner, or person appointed as aforesaid, to defray the charges of his attendance, shall not appear before the Commissioners or Assistant Commissioner pursuant to such summons, without assigning some reasonable excuse for not appearing, or shall refuse to be sworn or to be examined and give evidence touching the premises, the Commissioners or Assistant Commissioner, or person appointed as aforesaid, upon proof thereof upon oath, shall and may, and they and he are and is hereby authorized, by warrant under the hands and seal of such Commissioners, or the hand

hand and seal of such Assistant Commissioner, or person appointed as aforesaid, to direct any person whomsoever to cause any sum of money, not exceeding Five Pounds, to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to appear or to be sworn and give evidence, rendering the overplus (if any), upon demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale; and the monies so to be levied as aforesaid shall be considered as part of the monies directed to be raised for carrying this Act into execution, and shall be applied accordingly; and all persons who shall wilfully give false evidence, or otherwise forswear themselves in any such examination, shall, upon conviction thereof, suffer the penalties of wilful and corrupt Perjury.

108. Power to assess Costs.

And be it Enacted, That in case the Commissioners or any Assistant Commissioner shall, upon the hearing and determination of any claim or objection to be delivered to or made before them or him in pursuance of this Act, so think proper, it shall be lawful for them or him to award and order such costs and charges as they or he shall think reasonable to be paid to the party in whose favour any such determination shall have been made by the other party; and in case the person who shall be liable to pay such costs or charges shall neglect or refuse to pay the same, on demand, then and in every such case it shall be lawful for the Commissioner or Assistant Commissioner, and they and he are and is hereby authorized and required, by warrant under the hands and seal of the Commissioners, or under the hand and seal of the Assistant Commissioner, directed to any person whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, rendering the overplus (if any), on demand, to the person whose goods and chattels shall have been so distrained and sold, after deducting thereout the costs and charges attendant on such distress and sale: Provided always, That in case the said person against whom the Commissioners or Assistant Commissioner shall have determined shall cause an action to be brought, pursuant to this Act, and proceed to trial, the execution of the warrant aforesaid shall be suspended until after the trial of such action; and in case such person shall upon the trial of such action establish the right against which the Commissioners or Assistant Commissioner shall have determined, such person shall not be liable to the payment of any such costs as last aforesaid, but shall be entitled to his costs of such action.

109. Allowing Parties to try their Rights by an Issue at Law.

Provided always, and be it Enacted, That in case any person interested or claiming to be interested in any Land to be included in any drainage or improvement to be effected in pursuance of this Act, shall be dissatisfied with any determination of the Commissioners or any Assistant Commissioner, concerning any right or interest in, over or upon such Land, or any part thereof, made in the execution of this

Act, or any injury or damage sustained by him by reason of any thing done under the direction or with the approbation of the Commissioners or by any Board of Trustees acting in the execution of this Act, it shall be lawful for the person so dissatisfied to cause an action to be brought upon a feigned issue against the person in whose favour any such determination has been made, within Three calendar Months after the determination of the Commissioners or Assistant Commissioner shall have been notified in writing to the party against whom such determination shall be made, or to his attorney, or against any person by whom any such injury or damage may have been caused, within Three Months after such injury or damage shall have been sustained, and thereupon the person so dissatisfied shall proceed to a trial at law at the next assizes immediately following to be held for the county where the Land in respect to which such dispute may arise shall be situated; and after such action shall have been commenced, the defendant in such action shall and he is hereby required to name an attorney, who shall appear thereto, and accept of an issue or issues whereby such right or interest insisted on may be tried and determined (such issue or issues to be settled by the proper officer of the court in which such action shall be commenced, in case the parties shall differ about the same); and the verdict which shall be given in such action shall be final, binding and conclusive upon all persons whomsoever, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to be had thereon, which it shall be lawful for the court to do; and that after such verdict shall be obtained, and not set aside by the court, the said Commissioners shall and they are hereby required to act in conformity thereto, and to allow or disallow the claim thereby determined, according to the event of such trial:

If no Action, the Commissioners' Determination to be final.

Provided always, That in case no action shall be commenced within Three calendar Months as aforesaid; or if any such action shall be commenced, and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, then the determination of the said Commissioners or Assistant Commissioner shall be binding and conclusive to all intents and purposes whatsoever:

Death of Parties not to stop Proceedings at Law.

Suits not to delay the Drainage.

Provided also, That if any of the parties in any such action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such death had happened: Provided also, That no difference or suit touching the matters aforesaid shall impede or delay the Commissioners or any Board of Trustees in the execution of the powers vested in them by this Act, but the drainage or improvement hereby authorized to be made, and all other matters and things to be done in pursuance of this Act, shall be proceeded in, notwithstanding such differences or suits.

110. How Actions may be brought after

Provided always, and be it Enacted, That if any person in whose favour a determination as aforesaid shall have been made, and against whom

whom such action might have been brought if living, shall die before any such action shall have been brought, and before the expiration of the time hereinbefore limited for bringing such action, it shall be lawful for any person who might have brought such action against the person so dying to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the said Commissioners with process for commencing such action, in the same manner as the party so dying might have been served therewith if living; and it shall thereupon be incumbent on the heir, or other person who shall claim the benefit of such determination as aforesaid, to appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been actually living; and the rights of all parties shall be equally bound and concluded by the event of such action.

the Death of Parties.

111. Trustees not liable for Damage arising to Lands, &c., from insufficiency of Embankments, &c., unless Notice previously given.

And be it Enacted, That nothing herein contained shall be construed to render any Board of Trustees respectively liable for any consequential damages which may happen to any Land or other property through or by the accidental overflowing of any river, stream or watercourse, or by the sudden breaking of any bank, dam or sluice whatsoever, which, under the provisions of this Act, the said Trustees may take upon them the duty of regulating or maintaining: Provided nevertheless, That if the owner or occupier of such Land shall have given notice in writing to the said Trustees or their clerk, warning them or him of the probability of such damage, or the weakness and deficiency of any such bank, dam or sluice, and requiring such Trustees to strengthen, amend and repair the same, and the said Trustees shall not, with all reasonable speed, after the delivery of such notice, take proper precautions to prevent such damage, or to remedy such weakness or deficiency, then and in such case the amount of all consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by such Trustees under this Act.

112. Death of Parties not to suspend the execution of this Act.

And be it Enacted, That if any of the parties interested in any works by this Act authorized shall die before the same shall be completed, the powers and authorities vested in the Commissioners and Boards of Trustees respectively shall not be thereby determined or suspended, but the Commissioners and Trustees shall proceed in the execution of such powers and authorities so vested in them in such manner as they might have done in case such parties had not died.

113. Clause (Z) Warping and Irrigation Trustees may make special Bye-laws.

And be it Enacted, That any Board of Trustees elected for the purpose of warping or irrigation under this Act, shall have power, under the control and with the approbation of the Commissioners, to make bye-laws for regulating the supply of water for warping and irrigation respectively to the Lands comprised within their respective districts, and the commencement and termination in each year of the

period of irrigation and warping respectively, and for enforcing the making, maintaining and cleansing of sufficient interior banks, sluices, tunnels, cloughs, channels, drains, hatches, and other works for preventing damage to adjoining lands, for the admission of water for warping and irrigation, and all such other bye-laws conducive to the beneficial use and application of water for such warping and irrigation respectively, and for the prevention of consequential damage, as the Trustees, under such control and with such approbation as aforesaid, shall think fit.

114. Persons destroying Works, guilty of Felony.

And be it Enacted, That all and every person or persons whomsoever who shall at any time hereafter wilfully and maliciously cut, break down, destroy or damage any bank, dam, tunnel, sluice, engine, building, or any of the other works which shall be erected and made for the purposes of this Act, or any part thereof, shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of Seven Years, or to be imprisoned for any term not exceeding Two Years.

115. Penalty on Persons depositing Gravel, &c., so as to obstruct the free passage of the Water in the Rivers, &c. improved under this Act.

And be it Enacted, That if any person shall wilfully throw or deposit any ballast, gravel, or other matter or thing, so as to interrupt or obstruct the free passage of water through any of the rivers, watercourses, drains, cuts or sluices, which shall have been improved by any Board of Trustees under this Act, or shall, without the consent of such Trustees, lay any ballast, gravel, stones, dirt, rubbish, lime, timbers or clay on any of the banks of the rivers, drains or cuts aforesaid, so as the same may be likely to fall into or obstruct the passage of the water, or if any person shall maliciously open any sluice, dam, gate or watercourse belonging to the said drainage, or shall raise any wall, building or other obstruction in such rivers, drains, streams or watercourses, without the consent in writing of such Trustees, such person, being convicted of any of the offences aforesaid before any Justice or Justices of the Peace of the county where such offence shall be committed, by the oath of One or more credible witness or witnesses, shall be fined by such Justice or Justices a sum not exceeding Ten Pounds, to be levied in such manner as is hereinafter directed with respect to the levying any fine imposed by any Justice or Justices; and all such walls, buildings or other obstructions may be forthwith pulled down and removed by the Trustees, or any person or persons duly authorized by them, and the materials of such walls, buildings or obstructions may be sold by order of the said Commissioners to defray the costs of their removal.

116. Proceedings by Summons for the recovery of Penalties.

And be it Enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable by information before a Justice of the Peace, it shall be lawful for the Justice of the Peace to whom complaint shall be made of any offence against this Act to summon the party complained against before him, and on such summons

mons to hear and determine the matter of such complaint, and on proof or admission of the offence to commit the offender, and adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited or taken by or before such Justice; and all such proceedings by summons without information in writing shall be as good, valid and effectual to all intents and purposes as if an information in writing had been exhibited.

117. Form of Conviction.

And be it Enacted, That any Justice of the Peace before whom any person shall be convicted of any offence against this Act shall and may cause the conviction to be drawn up in the following form of words, or in words to the same effect:

to wit. } "BE it Remembered, That on the day of A. B. is convicted before Her Majesty's Justices or Justice of the Peace for the county of by virtue of the Act passed in the seventh year of the reign of Her Majesty Queen VICTORIA, intituled [here insert the title of this Act; specify the offence, and the time and place when and where the same was committed, as the case shall be]; and we do adjudge that the said A. B. shall for the said offence . Given under our hands and seals [or, my hand and seal] the day and year aforesaid."

118. Recovery and application of Penalties.

And be it Enacted, That all penalties and forfeitures inflicted or imposed by this Act, or incurred under the provisions or directions thereof, and all sums payable for compensation or damage, the manner of levying and recovering whereof is not hereinbefore otherwise particularly directed, may be recovered in a summary way by the order and adjudication of some Justice of the Peace of the county in which such offence shall have been committed, or such compensation shall have become due or damage happened, on complaint to him for that purpose exhibited by the oath or affirmation of any person, or on the confession of the party offending, which oath or affirmation such Justice is hereby authorized to administer; and in default of payment of such penalties or forfeitures, or sums for compensation or damage, the same shall be levied by distress and sale of the goods and chattels of the party making such default, by warrant under the hand and seal of such Justice, rendering the overplus (if any), on demand, to the party whose goods and chattels shall be so distrained, the reasonable charges of such distress and sale being deducted; and in case any such penalties or forfeitures shall not be forthwith paid, it shall be lawful for such Justice, and he is hereby authorized and required to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made of such warrant of distress, unless the offender can give sufficient security, to the satisfaction of such Justice, for his appearance before such Justice, or before some

other Justice of the Peace for the county where such offence shall have been committed as aforesaid, on such day or days as shall be appointed for the return of the warrant or warrants of distress, such day or days not being more than Eight Days from the taking any such security, and which security any Justice is hereby empowered to take by way of recognizance or otherwise; but if upon the return of such warrant it shall appear that no sufficient distress can be had whereupon to levy the penalty and such costs as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Justice, upon the confession of the offender or otherwise, that he has no sufficient goods and chattels whereupon such penalty, forfeitures, costs and expenses could be levied (if a warrant of distress should be issued), such Justice shall not be required to issue such warrant of distress; and thereupon it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to commit such offender to any common gaol or house of correction, there to remain at hard labour for any time not exceeding Three calendar Months, unless such penalties or forfeitures, and all costs and charges attending such proceedings as aforesaid, to be ascertained by such Justice, shall be sooner paid and satisfied, or shall otherwise be discharged by due course of law; and such penalties and forfeitures, when received, shall be paid to the Commissioners or Trustees aforesaid, and be by them applied to the purposes of this Act.

119. Proceedings not to be quashed for want of form.

And be it Enacted, That any orders, convictions or other proceedings to be had or made by or before any Justice of the Peace by virtue of the powers granted by this Act, or any orders or proceedings to be had or made by, before or on behalf of the said Commissioners, or, in case of appeal, before the court of quarter sessions, shall not be quashed or vacated for want of form only.

120. No Action to be brought against Person acting in execution of this Act, until after Notice, &c.

And be it Enacted, That no action, suit or information shall be brought, commenced or prosecuted by any person for any thing done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless notice in writing of such action, suit or information, specifying the ground or cause thereof, and signed by the attorney for the plaintiff, shall be given to the said Commissioners or Trustees, or persons against whom proceedings are intended to be commenced, at least Twenty-one Days before such action, suit or information shall be commenced.

121. No Action to be brought after tender of sufficient amends, &c.

And be it Enacted, That no plaintiff shall recover in any action to be brought against any Commissioners or Trustees, or any other person, for any thing done in execution of the powers vested in them or him under this Act, if tender of sufficient amends shall be made by or on behalf of the Commissioners, Trustees or person before such action is brought;

brought; and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the court in which such action shall depend, at any time before issue joined, to pay into court such sum of money as they or he shall think fit, whereupon such proceedings, order and adjudication shall be had and given in and by such court as in actions where the defendant is allowed to pay money into the court.

122. General Issue.

And be it Enacted, That if any action shall be brought against any person or persons as aforesaid for any act, matter or thing done by virtue of this Act, such person or persons may plead the general issue, and give the special matter in evidence.

123. Clause (AA.) Differences may be submitted to arbitration.

Provided always, and be it Enacted, That in every case in which under this Act any person is authorized to require that a matter in dispute or difference be determined by the verdict of a Jury, and also in every case in which under this Act any person is hereby authorized to bring an action upon a feigned issue, it shall be lawful for the person so authorized, and the Commissioners, Trustees or persons with whom the dispute or difference shall have arisen, or against whom the action might be brought, by writing under their respective hands, or hands and seals, to submit the matter in difference to arbitration, or to arbitration and umpirage, upon such terms of reference and with such security for the payment of costs as the parties may agree upon, and such submission shall be irrevocable; and the arbitrator or arbitrators or umpire named in the said reference may proceed, notwithstanding the death of any party or parties; and the decision of such arbitrator or arbitrators or umpire, according to the terms of the submission, shall be final and conclusive on all persons, and the costs of such arbitration or arbitrations and umpirage shall be paid as the arbitrator or arbitrators or umpire shall direct.

124. Any party whose Lands may be injured by the neglect to maintain the Banks or scour the Channels of existing Drains, &c. may require the Proprietors so neglecting to join in an effectual cleansing and maintaining thereof.

AND whereas by reason of the neglect of or want of co-operation among the proprietors or the occupiers of lands to maintain the banks and cleanse and scour the channels of existing drains, streams or rivulets lying in or forming the boundaries of or leading to the outfall from such Lands, much injury is done thereto, and improvement prevented, but sufficient powers do not at present exist to remedy the evil aforesaid; BE it therefore Enacted, That in all cases where, by reason of the neglect of any such proprietor or occupier to maintain the banks or cleanse and scour the channels of existing drains, streams or rivulets lying in or bounding the lands of such proprietor or occupier, injury shall be caused, it shall be lawful for the proprietor or occupier of any Land injured thereby, to require the proprietor or occupier so neglecting as aforesaid, by a notice in writing, delivered to him, or left at his usual place of abode, to join in the effectual

maintaining such banks, or in the cleansing and scouring of the channels of such drains, streams or rivulets; and in case he shall refuse effectually so to do, it shall be lawful for the proprietor or occupier of the Land to which such injury shall be caused, immediately after the expiration of Fourteen Days from the service of such notice as aforesaid, to proceed with the maintaining and repairing of such banks, or the cleansing and scouring of such channels as aforesaid, and to sue for and recover from such neglecting proprietor and occupier the whole or such just proportion of the expenses attendant thereon as he may be liable to, before the court of petty sessions of the division of the county or counties wherein such drain, stream or rivulet, or the part thereof which shall be cleansed and scoured, or either of them, shall be, and as may be fixed and determined by such court, who shall have power to fix and determine the same, and to award, in addition to the usual costs, such further costs, to be paid by such party and in such manner as to them shall seem reasonable: Provided always, That in all such cases when such drain, stream or rivulet shall not be a boundary between the adjoining lands of such proprietors or occupiers as aforesaid, it shall not be lawful for any such proprietor or occupier to proceed to maintain and repair the banks, or cleanse and scour the channel of such drains, stream or rivulet as last aforesaid, without a warrant or authority in writing so to do from Two or more Justices assembled in petty sessions for the county wherein such drain, stream or rivulet, or the greater part thereof, shall be situate, and which warrant or authority such Justices shall grant, if, upon inquiry had before them, upon a summons to be served upon the proprietors or occupiers of the Lands in which such drain, stream or rivulet shall be, and who shall have neglected to cleanse or scour the channels, or maintain the banks of the same, it shall be proved by one or more competent witnesses that the neglect so to do causes such injury or prevents such improvement.

Mode of proceeding in case of refusal.

125. Penalty for wilfully causing Obstructions in Streams or Rivers.

AND whereas much injury is caused by persons placing or throwing stones and other materials into rivers, streams and drains, and thereby raising obstructions therein; BE it therefore Enacted, That if any person shall, after the passing of this Act, wilfully throw or place any stones, gravel or other material in any river or watercourse, and thereby create any obstruction in the free discharge of the waters therein, every such person, being convicted thereof before Two or more Justices of the Peace at petty sessions, shall forfeit and pay such sum, not exceeding the sum of Five Pounds, as such Justices may think proper, which penalty shall, in case of private property, be paid to the party aggrieved, or in the case of property of a public nature, or wherein any public right is concerned, the money shall be applied in such manner as such Justices of the Peace shall direct; and if such penalty, together with costs, if awarded (which costs such Justices of the

the Peace are hereby authorized to award if they shall think fit), shall not be paid, either immediately after the conviction, or within such period as such Justices shall at the time of the conviction appoint, the said Justices may commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, as the said Justices shall think fit, for any term not exceeding Two calendar Months, unless such sum and costs be sooner paid; and it shall be lawful for such Justices to direct that the obstruction complained of shall be removed, and include in the costs which such Justices are hereinbefore authorized to award the expense of removing such obstruction: Provided always, That nothing herein contained shall extend to any case where the person complained of acted under a fair and reasonable supposition that he had a right to do the act complained of.

126. Saving of Local Drainage Acts.

Provided always, and be it Enacted, That, except as hereinbefore expressly directed, nothing in this Act contained shall extend to or affect the rights, duties, privileges, powers or authorities vested in or to be discharged by any Commissioners of Sewers appointed by any Commission under the Great Seal, or the Commissioners appointed under any local or private Act of Parliament for Sewers or Drainage, or shall extend to or affect any charter, law, usage or custom concerning Romney Marsh, or concerning the North or Middle Level of the Fens, being part of the Great Level of the Fens, called the Bedford Level.

127. Saving Navigable Rivers and Canals.

Provided always, and be it Enacted, That nothing herein contained shall authorize or enable the Commissioners or Trustees, or any person or persons acting or pretending to act under this Act, to make or construct any work injurious to the navigation of any navigable river or canal, nor shall authorize or enable the Commissioners or Trustees materially to lessen the supply of water thereto, without previously making equivalent provision in lieu thereof.

128. Provision for Districts where there are no Petty Sessions.

And be it Enacted, That wheresoever throughout this Act any act, matter or thing may be directed to be done at the petty sessions for the district wherein any place may be situate, the same shall and may be done at the petty sessions for the next adjoining district, in any case where such place shall not be included in any such district.

129. Piers not to be constructed without leave of the Admiralty.

Provided always, and be it Enacted, That nothing in this Act contained shall authorize any Trustees elected hereunder, or any other person, to construct or erect any pier, quay, wharf, jetty, breast or embankment in or adjoining to any public harbour, or any river immediately communicating therewith, so far as the tide flows up the same, without the previous authority and consent of the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral

of the United Kingdom, to be for that purpose signified in writing under the hand of the Secretary of the Admiralty for the time being.

130. Saving the Property of the Ordnance.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice or in any manner affect any of the estates, rights or property vested in the principal officers of Her Majesty's Ordnance, in trust for Her Majesty, Her heirs and successors, for the public service, or authorize or enable the said Commissioners, or any Trustees to be elected under the authority of this Act, or any other person or persons whomsoever, in any manner to interfere with any fortification, battery or other work of defence on any such estates, rights or property as aforesaid, or any easement, watercourse or other commodity or advantage belonging to or enjoyed therewith, or to quarry, dig or raise gravel, earth, stones, sand or other materials therein, without the consent of the said principal officers, or their successors in office, for the time being.

131. Definition of Terms.

And be it Enacted, That in the construction of this Act (except where the nature of the provision or the context of the Act is repugnant to such construction) "The Commissioners" shall mean the said Drainage Commissioners for England and Wales; the word "Land" shall extend to all arable, pasture, or otherwise profitable, and to all waste uncultivated land, whether bog-land, land flooded or covered with water, or otherwise wholly or partially unproductive, and shall also extend to messuages, tenements, mills, weirs and other ereditaments, corporeal or incorporeal; and the word "Embankment" shall extend to all works proper for reclaiming or protecting land subject to be inundated by the sea or by tidal rivers, or to be otherwise inundated or flooded; and the word "Plan" shall extend to drawings and sections; and the word "River" shall extend to all rivers, rivulets, lakes, canals, streams and estuaries; and the word "Person," and the word "Proprietor" respectively, shall extend to the Queen's Majesty and to all bodies politic, corporate or collegiate, and also all bishops, parsons and other ecclesiastical persons, as to Lands held by them in those respective characters, and to any number of persons associated together as a company or partnership; and the expression "Chief Rent" shall extend to and include all rent or rents reserved upon or payable out of or in respect of the estate or interest of any person being a proprietor within the meaning of this Act, or any estate or interest paramount thereto; and the word "County" shall extend and be applied to a county, county of a city, and county of a town, and to a riding, liberty and division of a county; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the plural number shall extend and be applied to one person or thing as well as several persons or things; and every word importing the masculine

culine gender only shall extend and be applied to a female as well as a male.

132. Act may be amended, &c.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Drainage of Lands.

A

B I L L

[AS AMENDED BY THE COMMITTEE AND ON RE-COMMITMENT]

To facilitate the Drainage of Lands, the Improvement of Water-power, and for the Embankment, Warping and Irrigation of Lands.

(*Prepared and brought in by Mr. Pusey, Lord Worsley, and Sir John Trollope*).

Ordered, by The House of Commons, *to be Printed,* 28 *July* 1843.

[*Price* 8*d.*]

508.

Under 12 *oz.*

A

B I L L

To empower the Commissioners of Her Majesty's Woods to appropriate to Building Purposes the Area of Thatched House Court, and to widen and improve Little Saint James' Street, in the Parish of Saint James, Westminster.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS The Queen's most Excellent Majesty, in right of Her Crown, is seised to Her Majesty, Her heirs and successors, of a Plot of Ground situate in the Parish of Saint James, Westminster, in the County of Middlesex, abutting Eastward on Saint James's Street, Northward on Little Saint James's Street and Catherine Wheel Yard, Westward on a Plot of Ground, now or heretofore Garden, belonging to Bridgewater House, and Southward on the north wall of a capital Messuage in Saint James's Street aforesaid, known as the Albion Club-house, and on Stable Buildings in Russell Mews in the rear of the said Club-house, containing in the whole by estimation, Two Roods and Twenty Perches, or thereabouts, and including the open Area of a Court called Thatched House Court, with the entrance thereto from Little Saint James's Street aforesaid; subject nevertheless, as to the last-mentioned area and entrance, to the power and superintendence of the paving, repairing, cleansing and lighting the same, vested in "The Commissioners for paving and improving the Parish of Saint James, Westminster;" part of which said Plot of Ground hereinbefore described, with the Messuage or Tenement heretofore erected and standing thereon, was demised by his late Majesty King George the Third to Richard Henry Alexander Bennett, by Letters Patent, dated Tenth May One thousand eight hundred and Three, for a term which will expire on the Tenth day of October One thousand eight hundred and Sixty-one; other part thereof, with Preamble.

the several Messuages or Tenements heretofore erected and standing thereon, was demised by his said late Majesty King GEORGE the Third to Maria Deborah Grosvenor, spinster, Thomas Grosvenor and Robert Grosvenor, by Letters Patent, dated Third March One thousand eight hundred and Ten, for a term which will expire on the Tenth day of October One thousand eight hundred and Sixty-seven; and another small portion thereof was demised by Indenture of Lease, dated Twentieth November One thousand eight hundred and Twenty-two, to Sir Richard Sutton, Baronet, for a term which will expire on the said Tenth day of October One thousand eight hundred and Sixty-one:

And whereas all and singular the houses, erections and buildings which heretofore stood on the said Plot of Ground, including all the houses, erections and buildings which stood in the said Court, called Thatched House Court, have lately been pulled down, or are now in progress of being pulled down, with the view of new houses and buildings of a superior class being erected on the site thereof; and there being no longer any need or occasion for keeping open the area of the said Court, called Thatched House Court, or the entrance thereto, it is expedient that the same should form part of the building site of the said intended new houses, and be discharged from all rights of way into, in or over the same, and from the jurisdiction of the said Commissioners for paving and improving the Parish of Saint James, Westminster, who will thereby be relieved from the charge of paving, cleansing and lighting the said Court for the future:

And whereas the said Street, called Little Saint James's Street, is of irregular width, and for the most part inconveniently narrow, being at its entrance from Saint James's Street of the width of Ten Feet only, or thereabouts, and it is proposed to improve and widen, and render the same more commodious for the passage of Carriages and Foot-passengers, by throwing into the said Street, and leaving open for the use of the Public, so much of the North side of the before-mentioned Plot of Ground belonging to Her Majesty abutting on the South side of Little Saint James's Street and Catherine Wheel Yard aforesaid, as will make the said Street, called Little Saint James's Street, of the uniform width of Twenty-four Feet throughout; and Her Majesty is graciously assenting thereto;

May it therefore please Your MAJESTY,

That it may be Enacted; And be it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, the Ground and open Area of the said Court, called

I. Area of Thatched House Court vested in Her

called Thatched House Court, and of the entrance into the said Court from Little Saint James's Street aforesaid, shall be and the same is hereby vested in Her Majesty, Her heirs and successors, freed and discharged of and from all rights of way and other rights and easements whatsoever, into, in or over the same, and freed and discharged of and from the power and superintendence of the paving, repairing, cleansing, lighting, watering and improving the said Court, and preventing nuisances and obstructions therein, now vested in the Commissioners for paving and improving the Parish of Saint James, Westminster; all which said rights of way and other rights and easements, power and superintendence shall be and the same are hereby extinguished; and that it shall and may be lawful to and for the Commissioners for the time being of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, to take and use, or demise the said Ground and Premises so freed and discharged as aforesaid, for building or other purposes; and either together with the adjoining Ground and Premises, the property of Her Majesty, and as part and parcel thereof, or separately therefrom, in as full and ample manner as they are by law authorized and empowered to take, use or demise any part or parts of the Possessions and Land Revenues of the Crown under their care and management.

Majesty, discharged of rights of Way, and the Jurisdiction of Paving Commissioners.

2. Commissioners of Woods empowered to widen Little Saint James's Street.

And be it Enacted, That it shall be lawful for the said Commissioners of Her Majesty's Woods, Forests, Land Revenues, Works and Buildings, to lay open into the said Street, called Little Saint James's Street, and the continuation of the said Street, called Catherine Wheel Yard, for the purpose of improving and widening the same, so much of the adjoining Ground of Her Majesty on the South side of the said Street, and in Catherine Wheel Yard aforesaid, as will make the said Street and the continuation thereof of the width of not less than *Twenty-four* Feet throughout; and to cause the said Ground so to be laid open as aforesaid, to be levelled and filled in with sound, hard rubbish to prevent the Ground from giving way, and to pave over the same Ground, either with stone, broken granite, wood or other material, to the satisfaction of the Commissioners for paving and improving the Parish of Saint James, Westminster; and that when the said Ground shall have been so laid open and paved as aforesaid, the same shall form part of the said Street, called Little Saint James's Street, and shall be used by the public accordingly; and the property of the pavement surface of the said Ground, and the sole power and superintendence of the paving, repairing, cleansing, lighting, watering and improving the same, and preventing nuisances and obstructions thereon, shall thenceforth be vested in the Commissioners for paving and improving the Parish of Saint James, Westminster.

3. Saving the Jurisdiction of the Paving Commissioners as to rating.

Provided always, and be it Enacted, That the exclusion hereinbefore contained of the area of the said Court, called Thatched House Court, from the jurisdiction of the said Commissioners for paving and improving the Parish of Saint James, Westminster, as to paving, cleansing and lighting the same, shall not extend or be construed to extend to exclude the same from the jurisdiction of the said Commissioners as to rating, but that it shall be lawful for the said Commissioners to rate all and every the persons and person who shall inhabit, use or occupy all or any of the houses or buildings to be erected on the said Area, Ground and Premises hereinbefore described, in such and the same manner and to the same extent as they might have done if the rights, power and superintendence hereby extinguished or taken away had never existed.

4. Saving the rights of Lessees.

Provided also, and be it Enacted, That nothing herein contained shall extend or be construed to extend to defeat, prejudice or affect the term, estate and interest of the said Richard Henry Alexander Bennett, his executors, administrators, under-tenants or assigns, under the said recited Letters Patent of the Tenth day of May One thousand eight hundred and Three, or of the said Deborah Grosvenor, Thomas Grosvenor and Robert Grosvenor, their executors, administrators, under-tenants or assigns, under the said recited Letters Patent of the Third day of March One thousand eight hundred and Ten, or of the said Sir Richard Sutton, Baronet, his executors, administrators, under-tenants or assigns, under the said recited Indenture of Lease of the Twentieth day of November One thousand eight hundred and Twenty-two; but that all such several terms, estates and interests shall remain whole and unimpaired as if this Act had not been passed.

A

B I L L

For the better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to alter and amend the Laws now in force for the regulation of Buildings in the Metropolis and in the Neighbourhood thereof, and to provide for the more effectual Drainage of such Buildings; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *First day of January One thousand eight hundred and Forty-four*, the following Acts shall be and the same are hereby repealed (except so far as any of the said Acts may repeal any other Act, either wholly or partly), and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the first of the hereinafter referred to Acts, on or before the said *First day of January One thousand eight hundred and Forty-four*, which shall be taken, commenced or prosecuted and recoverable and completed as if this Act had not been made); that is to say,

Preamble.

1. Repeal of existing Acts.

An Act passed in the fourteenth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places within

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the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke, Chelsea, in the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law:"

50 G. 3, c. 75. An Act passed in the fiftieth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to amend an Act of the Fourteenth Year of his present Majesty, for the better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of Houses and Buildings within the Places therein mentioned:"

2. And further be it Enacted, That from and after the said *First day of January One thousand eight hundred and Forty-four*, so much of an Act passed in the Session held in the fourth and fifth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for the safer Construction of Chimneys and Flues;" and of an Act passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act for the Regulation of Chimney Sweepers and Chimneys," respectively, as relates to the construction and regulation of Chimneys and Flues within the limits of this Act, but not otherwise, shall be and the same is hereby repealed.

4 & 5 W. 4.

3 & 4 Vict.

3. Interpretation Clause. AND for the better comprehension of the terms used in this Act; BE it Enacted, That the following words and expressions shall, throughout this Act, have the several meanings hereby assigned to them, unless where the context shall be repugnant to such construction; (that is to say)

The word "building" shall comprise all buildings of what nature or kind soever, not being bridges or structures wholly underground, and excepting all Royal Palaces, houses and buildings being in the possession or used or employed for the use or service of Her Majesty, Her heirs and successors:

The term "external wall" shall comprise all outer walls of buildings now or hereafter to be built which shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as party walls under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party walls:

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The term "party wall" shall comprise all walls which shall be used or intended to be used as a separation of one building from another, and also all walls which shall stand upon ground not wholly belonging to the same ownership or occupation:

The word "street" shall include every square, circus, crescent, street, road, place, row, mews, lane or place used or which may be used or is designed to be used as a carriage-way:

The word "alley" shall include any court, alley, passage or other public place which may be used or is designed to be used as a footway only:

The word "owner" shall mean the person or persons in possession or receipt of the rents or profits of any tenement:

The word "surveyor" shall include all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act, and also all deputy surveyors to be appointed in like manner:

And the word "surveyor" shall always be taken to mean the surveyor in whose district the buildings, street or alley, or other subject matter shall be:

And the term "already built" shall apply to all buildings, streets or alleys built or laid out before the First day of January One thousand eight hundred and Forty-four:

And the term "hereafter to be built" shall apply to all buildings, streets or alleys to be built or laid out after the First day of January One thousand eight hundred and Forty-four:

The word "Month" shall be taken to mean calendar Month:

The words "Clerk of the Peace" shall mean the Clerk of the Peace for the county or place within which the building or other subject matter is situate:

"Two Justices of the Peace" shall mean Two Justices of the Peace for the county within which the building or other subject matter is situate; except when the building or other subject matter is within the City of London or the Liberties thereof, then any matter or thing to be done by Two Justices of the Peace may be done by the Lord Mayor of the City of London, or any Two Justices of the Peace for the said City:

And all words importing the singular number and masculine gender respectively, shall include respectively the plural number and feminine gender:

A Square shall contain One hundred square or superficial Feet.

4. Limits of Act.

And be it Enacted, That the limits of this Act shall be taken to include all such parts and places lying on the north side of the River Thames as are within the exterior boundaries of the parishes of Fulham, Kensington, Paddington, Hampstead, Hornsey, Tottenham, Saint Pancras, Islington, Stoke Newington, Hackney, Stratford, Bromley, Poplar and Shadwell, and also such part of the parish of Chelsea as lies to the north of the said parish of Kensington, and also all such parts and places lying on the south side of the said river as are within the exterior boundaries of the parishes of Woolwich, Charlton, Greenwich, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting and Wandsworth.

Rates of Building.

5. Buildings to be divided into Rates.

And be it Enacted, That all buildings already built, or which shall be hereafter built within the external limits of this Act, whether upon new or old foundations, or on foundations partly new and partly old, shall be distinguished and divided into Eight several Rates of Buildings hereinafter described, and such Eight Rates of Buildings shall be under the rules and directions hereinafter contained concerning the same respectively.

6.

And be it Enacted, That the floors of all buildings shall be counted from the foundation inclusively, but exclusive of the rooms in the roof thereof (if any); and that the height of all buildings (except such as are comprised in the Fifth and Seventh Rates hereinafter defined) shall be measured from the surface of the lowest or first floor to the top of the wall or parapet of any one of the fronts thereof.

7. First Rate of Building.

And be it Enacted, That every dwelling-house which shall have more than Four Floors, and also every dwelling-house which shall be higher than *Fifty-seven* Feet, and not higher than *Seventy* Feet; and every brewery, distillery, manufactory, warehouse or other building whatsoever (not being a dwelling-house or of the Sixth or Eighth Rate of Building), which shall be higher than *Forty* Feet, and shall not be higher than *Fifty* Feet, shall be deemed to be of the First Rate of Building.

8. Second Rate of Building.

And be it Enacted, That every dwelling-house which shall not have more than Four Floors, and which shall be of the height of *Forty-seven* Feet, and shall not be higher than *Fifty-seven* Feet; and every brewery, distillery, manufactory, warehouse or other building whatsoever (not being a dwelling-house or of the Sixth or Eighth Rate of Building), which shall be higher than *Thirty* Feet, and shall not be higher than *Forty* Feet, shall be deemed of the Second Rate of Building.

9. Third Rate of Building.

And be it Enacted, That every dwelling-house which shall contain either Three or Four Floors, and which shall be of the height of *Thirty-there*

Rates of Building.

Thirty-three Feet, but shall be under *Forty-seven* Feet in height; and also every dwelling-house of a lower height (if any) which shall have more than Three Floors; and every brewery, distillery, manufactory, warehouse or other building whatsoever (not being a dwelling-house or of the Sixth or Eighth Rate of Building), which shall be higher than *Twenty-two* Feet and shall not exceed *Thirty* Feet, shall be deemed of the THIRD RATE OF BUILDING.

10. Fourth Rate of Building.

And be it Enacted, That every dwelling-house which shall not have more than Three Floors, and which shall be less than the height of *Thirty-three* Feet; and every brewery, distillery, manufactory, warehouse, or other building whatsoever (not being a dwelling-house or of the Fifth or Sixth or Seventh or Eighth Rate of Building), which shall not be higher than *Twenty-two* Feet, shall be deemed of the FOURTH RATE OF BUILDING.

11. Fifth Rate of Building.

And be it Enacted, That every building not being a dwelling-house, brewery, distillery, manufactory or warehouse, or of the Sixth or Seventh Rate, which shall contain only One Floor, and shall not exceed a height of *Twelve* Feet from the top of the footings to the top of the wall or parapet of any one of the fronts thereof, shall be deemed of the FIFTH RATE OF BUILDING.

12. Sixth Rate of Building.

And be it Enacted, That every building which shall be at the distance of *Twenty* Feet at the least from any existing or intended street or alley, and which shall be detached from any house or building, or from ground not in the same possession therewith, *Fifty* Feet at the least, or which shall be connected therewith only by a fence or fence wall, shall be deemed of the SIXTH RATE OF BUILDING, and the walls or inclosures thereof may be built of any materials whatever, but such walls or inclosures, if built of brick or stone, shall be built, according to their several heights, of the thicknesses hereinafter required for external walls of the First or Second or Third or Fourth or Fifth Rate of Building, and all the chimneys and flues shall be built as hereinafter directed for the building of all chimneys and flues.

13. Seventh Rate of Building.

And be it Enacted, That every building which shall be built for the purposes of trade or the collection of toll, and which shall be detached *Fifteen* Feet at the least from any other house or building, and which shall not cover more than *One hundred* square Feet of ground, and the height of which shall not exceed *Twelve* Feet from the ground to the highest point of the roof, shall be deemed of the SEVENTH RATE OF BUILDING, and may be inclosed with any materials whatsoever, except the roof, which shall be covered as hereinafter directed;

directed; and except the chimney and flue (if any), which shall be built as hereinafter directed with respect to chimneys and flues.

14. Eighth Rate.

And be it Enacted, That all churches, chapels and other places for public worship; all theatres, exhibition rooms and other buildings, whether included within the aforesaid Rates or not, used either solely or at stated periods for purposes of public business, instruction, debate, diversion or resort; and also all breweries, distilleries, manufactories or warehouses, which shall be more than *Fifty* Feet high from the level of the lowest or first floor thereof to the top of the wall of any one of the fronts thereof; and also all dwelling-houses which shall contain more than *Seven* Floors inclusive of that (if any) in the roof thereof, or which shall exceed *Seventy* Feet in height from the surface of the lowest or first floor to the top of the wall or parapet of either of the fronts thereof, and which shall hereafter be built, shall, when such buildings shall be capable of being classed under any of the Rates hereinbefore set forth, be built with party and external walls at least *Four Inches and a Half* thicker than hereinafter required for party and external walls of buildings of the Rate to which they shall belong; but whenever the same shall exceed the limits hereinbefore assigned to the First Rate of building, then with party and external walls at least *Four Inches and a Half* thicker than hereinafter required for party and external walls of buildings of the First Rate, and shall be included in an EIGHTH RATE OF BUILDING; and all such buildings shall be built in other respects according to all the rules and regulations of this Act, so far as the same apply, but subject nevertheless to the special control hereinafter directed; and when all the walls of every such house or building shall have been built of their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, and every such house or building shall have been covered in, the owner thereof shall give *Twenty-one* Days' notice to the Surveyor and to the Official Referees, who shall, at a time to be specified in such notice, survey the said house or building; and they shall, within *Seven* Days after the making of such survey, certify under their hands to the owner thereof their approval of the same; or in case of any part of the walls, timbers, roof or internal supports shall appear defective or insufficient, such Surveyor and Referees, or any Three of them, then within the same *Seven* Days they shall give notice in writing to such owner of such parts as shall so appear to them defective or insufficient; and upon such notice, the said owner shall forthwith proceed to alter and strengthen such defective or insufficient parts, and shall not cover up any such parts until such Surveyor and Referees, or Three of them, shall be satisfied and shall have certified in writing their approval, as aforesaid.

Buildings Eighth Rate to be Half brick thicker Walls.

When roofed in, Twenty-one Days' Notice to be given to District Surveyor and to the Official Referees.

Surveyor and Referees to survey and certify Seven Days afterwards.

If insufficient, to give notice in writing.

And Owner to amend and Surveyor and Referees to certify when satisfied.

And

15. Appointment of Three Official Referees.

And be it Enacted, That Her Majesty's Principal Secretary of State acting for the Home Department, shall appoint Three persons, being Architects, who shall be termed "Official Referees," for the purpose of determining the questions hereafter directed to be referred to them; and the determination of any Two of such Referees shall be binding on all parties in respect of any matters hereafter referred to such Referees; and any question hereafter directed to be referred to them may, if the parties interested agree, be referred to any One of such Referees, whose decision shall be binding in all respects; and such persons may be nominated from time to time, and may be removed, as such Principal Secretary for the time being as aforesaid shall think proper.

16. Attached Buildings and Offices to be rated distinctly.

And be it Enacted, That any building or office now built or hereafter to be built, attached to any dwelling-house or building of the First, Second, Third, Fourth and Fifth or Eighth Rates, and to any brick or stone building of the Sixth Rate, and to be held in the same occupation therewith, and whether such attached building or office was or shall be built at the same time with such dwelling-house or building to which the same shall be attached, or at any time afterwards, shall, so far as regards the external walls thereof, be held to be of the Rate of which such attached building or office would be if not so attached, but so far as regards the party walls thereof, if any, shall be held to be of the Rate of the dwelling-house or building of the highest Rate to which such party walls shall adjoin when such attached building or office shall be completed; and also, that it shall be lawful to build any greenhouse for plants, vinery, aviary, or such like building, either attached to or detached from any house or building, in such manner and of any such materials as shall be approved by the Surveyor in whose district the same shall be built, provided that the party wall, if any, shall be built as hereinafter directed for party walls.

17. Detached Buildings and Offices to be rated distinctly.

And be it Enacted, That every building or office now built, or which shall hereafter be built, to be held in the same occupation with any house or building of the First, Second, Third, Fourth, Fifth, Sixth and Eighth Rate, and entirely free and detached from such house or building, or connected therewith only by a fence or fence wall or covered passage, open on one or both sides, shall be deemed to be of the Rate such building or office would be of if the same did not belong to such house or building.

18. Method of ascertaining the Rate.

And be it Enacted, That the Rate of any house or building shall be ascertained by the Surveyor by measurement of the wall of the highest front or side thereof, not being a party wall; and that the number of Squares contained in any house or building shall be ascertained by such Surveyor by measurement of the surface of the floor containing

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the greatest number of Squares at or above the principal entrance to such house or building, including such parts of the party walls as belong to such house or building, but not any attached office, area or balcony or open portico; and in case the owner or any other person interested in such house or building shall apprehend himself to be injured by the measurement made by such Surveyor as aforesaid, it shall be lawful for such owner or other person to refer the same to the determination of the aforesaid Official Referees, whose decision shall be final.

19. The thickness of Walls to be ascertained by measuring only the original thickness.

And be it Enacted, That the thickness of any party wall, external wall, or party fence wall, and of the footings thereof, of any house or building already built, or which shall be hereafter built, shall be ascertained by measuring only the thickness of which such walls or footings shall have been originally built; and that no additions made at any time to the thickness of such walls or footings shall be deemed to add to the thickness of such wall or footing; and if any person shall build any wall of a less thickness than is hereby required, or shall at any time take down any portion of any wall so as to reduce the thickness thereof, and shall be convicted of the same before any Two Justices of the Peace, he shall for every such offence be fined in any sum not exceeding *One hundred Pounds*; and such wall shall be declared a nuisance, and shall be taken down accordingly, as is after directed with respect to ruinous walls.

Regulations.

20. Widths of Streets, Courts, &c.

And be it Enacted, That it shall not be lawful, after the passing this Act, to form any street of a less width in every part thereof than *Thirty* Feet, nor any alley of a less width in every part thereof than *Twenty* Feet, where such alley shall have two entrances thereto at opposite sides or ends, at least *Twenty* Feet wide, open from the ground upwards, nor of a less width in every part thereof than *Thirty* Feet, where such alley shall have only one entrance thereto, and which entrance shall be at the least *Thirty* Feet wide, open from the ground upwards; and the width of every street or alley shall be ascertained by measuring (at right angles to the course thereof) such width only as shall be given up to or used by the public, or shall be paved or lighted at the public expense, and to be under the superintendence of the District Surveyor.

How to ascertain the Widths of Streets.

21. Dwelling-houses to have a back yard One Square.

And be it Enacted, That every dwelling-house which shall be hereafter built on any old or new foundations shall have an inclosed back yard or an open space of at least One Square, exclusive of any building therein, except where such dwelling-house shall be built on foundations either wholly or partly old, then such open space may have buildings thereon, but not to be carried up beyond the level of the ceilings of the under-ground and ground floors.

And

22. No underground Room to be used as a Dwelling, unless there shall be an open area.

And be it Enacted, That it shall not be lawful hereafter to build any house or building, either upon old or new foundations, in which the floor of any room or cellar intended to be used as a dwelling shall be below the surface or level of the ground in the immediate neighbourhood of such house or building, unless there shall be an open space or area adjoining to the front, back or external side of such room or cellar, and extending the full length thereof, and not less than *Three* Feet wide in every part, from *Six* Inches below the floor of such room or cellar to the surface or level of the ground, and unless there shall be a part or space of such area, at least *Six* Feet long and *Three* Feet wide in front of the window of such room or cellar, left open or covered only with open iron gratings.

23. Occupation of Cellars, &c.

And be it Enacted, That in any house already built or which shall be hereafter built, it shall not be lawful to let separately, except as a warehouse or storehouse, nor to occupy nor suffer to be occupied for hire as a dwelling-place any room containing less than One Square, nor any underground cellar or room of any dimensions, unless every such room shall have a window in the same to an open area, and fireplace with proper flue therefrom, as hereinafter directed, and an open area adjoining to such underground cellar or room; nor shall it be lawful to use, or to suffer to be used, any part of any dwelling-house as a pigsty, dog-kennel, or any other like obnoxious purpose; and every person who shall wilfully let or suffer to be occupied or used any underground cellar or room contrary to the provisions of this Act, shall, on conviction thereof before Two Justices of the Peace, forfeit and pay the sum of *Twenty Shillings* for every day that such cellar or room shall be so occupied, and Half of such penalty to go to the person who shall be the informer, and the other Half to the Surveyor for the district in which such unlawfully occupied or used cellar or room shall be situate, unless neglect or default can be proved against such Surveyor, in which case the whole penalty shall go to the person so informing.

Penalty.

24. Every Room used for habitation to have a Fireplace and Window.

And be it Enacted, That there shall be made for every underground room intended or used as a dwelling in every house or building which shall be hereafter built, a fireplace at least *Three* Feet high and at least *Two Feet Nine Inches* wide, with proper flue therefrom; and also a window opening at least *Four Feet Nine Inches* high, and at least *Three* Feet wide in the clear of the reveals, which window opening shall be fitted with a frame filled in with glazed sashes, at least the *One-half* of which shall be made to open for ventilation.

25. Regulating Heights of Rooms.

And be it Enacted, That in any house or building which shall be hereafter built, there shall not be in any part of the roof thereof more than One Floor of rooms, which rooms shall not be of a less height

Sixth Rate Buildings, and Obnoxious or Offensive Trades.

than *Seven* Feet, nor exceeding *Ten* Feet within the roof; nor shall there in any other part of such house or building be built or used any room as a dwelling of a less height than *Eight* Feet from the floor to the ceiling.

26. Timber Buildings to be built under control of the District Surveyor; and no Buildings to be afterwards erected nearer to them than Fifty Feet.

And be it Enacted, That if any part of the external walls or inclosures of any building of the Sixth Rate shall be more than *Twenty-five* Feet high from the foundation thereof, and shall be wholly or in part of any other materials than are hereinafter directed for external walls, such building shall be built, as regards the strength thereof, to the satisfaction of the Surveyor; and it shall not be lawful hereafter to build any house or building of any Rate whatever nearer than *Fifty* Feet to any timber building, or to any other building of the Sixth Rate, which may be used for dangerous, offensive or obnoxious trades, as herein defined.

27. Dangerous, obnoxious or offensive Trades to be only carried on Fifty Feet from other Buildings, or Forty Feet from any Road.

And be it Enacted, That as from the *First day of January One thousand eight hundred and Forty-four*, it shall not be lawful to carry on within the limits of this Act, in any house or building, or vault, or in the open air, at a less distance than *Forty* Feet from any public way, or than *Fifty* Feet from any other house or building, or ground not in the same possession or occupation therewith, any trade or business such as that of a soap-boiler, tallow-melter, slaughterer of cattle or horses, blood-boiler, bone-boiler, fellmonger, oil-cloth-painter, manufacturer of gunpowder, detonating powder, lucifer-matches or varnish, gas-works, chemical-works, fire-works, or any other trade or business which is or which shall be considered by Two of the Justices of the Peace to be dangerous as regards fire, or dangerous or offensive, or obnoxious as regards all persons, more especially those persons living or passing in the vicinity thereof; nevertheless it shall be lawful for all such trades and businesses as shall have been already established, to be continued to be carried on in their present situations for a term not exceeding *Thirty* Years from the passing of this Act, provided the same be not contrary to any existing Act of Parliament, nor otherwise contrary to law; and every person who shall be convicted before Two Justices of the Peace of carrying on such dangerous or offensive trade, shall forfeit any sum not exceeding *Fifty* Pounds, as the said Justices may determine.

Public Buildings Supervision.

28. On completion, to be again surveyed by the same Surveyor and Official Referees; and Certificate under their hands filed with Clerk of Peace.

And be it Enacted, That upon the completion of every such building as aforesaid, the Owner thereof shall again give *Twenty-one* Days' notice to the Surveyor; and such Surveyor, together with the said Official Referees, shall survey the same, and shall certify under their hands, or under the hands of any Three of them, that such building has been built to their satisfaction, and such certificate shall be immediately filed with the Clerk of the Peace, paying such Clerk *One Shilling* for filing thereof, and no more; and then and in every such

case

Public Buildings Supervision.

case and not otherwise, it shall be lawful to use such building as aforesaid; and in case any such house or building shall be used either as a dwelling-house or for any other of the purposes aforesaid, before such certificate of satisfaction as aforesaid shall have been filed with the Clerk of the Peace, such person shall, on conviction thereof before Two Justices of the Peace forfeit a sum, not being less than *Five Pounds* nor exceeding *Five hundred Pounds*, to be paid by the Owner or Occupier of such house or building daily, until the filing of record of such certificate of satisfaction as aforesaid, One-half thereof to go to the person giving information, and the other Half to the poor of the parish in which such building shall be: Provided always, That if within *Twenty* Days from the assessing of such penalty such certificate of satisfaction shall not have been filed as aforesaid, such house or building shall be liable to be abated as a nuisance under the powers in this Act contained.

29. Parties desirous of erecting a Building not belonging to any of the Rates.

And be it Enacted, That in case any party shall be desirous of erecting any building which, in the opinion of the Surveyor, shall not come within any of the aforesaid Rates, then the same shall be built in and according to such Rate as the Surveyor shall direct; and if the party so desirous to build shall be dissatisfied with the decision of the Surveyor, it shall be referred to the aforesaid Official Referees, and their decision shall be final.

Extent of Buildings, and Restrictions under which Buildings may communicate through Party Walls.

30. Single Houses and Buildings may be divided into Two or more.

And be it Enacted, That every wall which shall hereafter be built to divide any house or building into Two or more distinct houses or buildings, shall be built as a party wall, in the manner and of the materials, and of the several heights and thicknesses hereinafter described for party walls of the highest rate of building to which such party wall shall belong or adjoin; and every house or building already built, or which shall hereafter be built, and which shall be used or occupied as Two or more separate houses or buildings, each having a separate entrance and staircase, and each being separately rated to the poor, shall be deemed to be Two or more separate houses, and shall be divided from each other by a party wall, built in manner aforesaid.

31. Houses covering more than Twelve Squares to have First Rate Walls.

And be it Enacted, That every dwelling-house which shall be hereafter built, which shall contain more than *Twelve* Squares, shall have external and party walls as herein described for First Rate buildings; and it shall be lawful to make openings through a party wall between one dwelling-house and another dwelling-house, and thereby to unite Two or more dwelling-houses, provided that when the houses so united shall contain more than *Twelve* Squares, they shall each have external and party walls as herein directed for First Rate buildings; and provided that such dwelling-houses shall be and shall continue to be in the same occupation, and if used for trade, to be used in the same

Extent of Buildings, &c.

same trade, and the poor's-rate thereof paid by the same person; and provided also, that by making such openings the stability of any or either of such dwelling-houses, in the opinion of the Surveyor, shall not be endangered.

32. No Building used as a Warehouse to exceed Thirty-five Squares; except Buildings of Sixth Rate; unless divided by Party Walls, which may have openings formed in them; but with protecting Walls and Brick Arches, and Stone Landings and Iron Doors.

And be it Enacted, That it shall not be lawful hereafter to use any building which shall exceed *Thirty-five* Squares for warehouses and workshops, except buildings of the Sixth Rate, unless the same shall be separated by party walls into Two or more divisions, each one not exceeding *Thirty-five* Squares, such party walls to be built in the manner and of the materials, and of the several heights and thicknesses herein required for party walls of the First Rate; and it shall be lawful to form openings in such party walls, provided every such opening shall be floored with brick or stone, and shall be protected by brick piers, at least *Fourteen* Inches wide, and projecting at least *One Foot Six Inches* from each face of such party wall, and shall have brick arches or stone landings the entire width and depth of such opening, above and below the same; and every such opening shall be not more than *Five* Feet wide and *Seven* Feet high, and shall be provided with Two strong wrought-iron doors, fixed in wrought-iron frames, and not less than *One-fourth* of an Inch thick in the panels thereof, and the space between such doors shall not be less than *Four* Feet.

33. No Stables to contain more than Twenty-five Squares.

And be it Enacted, That no portion of any building for stables, including coach-houses and harness-rooms, which shall be hereafter built, shall contain within its walls, whether party walls or external walls, more than *Twenty-five* Squares; nor shall any enlargement be made at any time hereafter to any building for stables already built or which shall be hereafter built, so that any portion of the same when enlarged, including coach-houses and harness-rooms, shall contain more than *Twenty-five* Squares as aforesaid.

34. Buildings of the Sixth Rate in distinct Tenures and not at requisite distance, to be pulled down as nuisances,

unless with proper External Walls;

and if adjoining, with proper Party Walls.

And be it Enacted, That if any building of the Sixth Rate shall be hereafter divided into Two or more distinct buildings, and that the several parts of such buildings so divided shall not be at the several distances from each other and from other buildings and ground as hereinbefore particularly directed for every building of the Sixth Rate, then every such several parts of such buildings so divided as shall not be at such several distances shall be deemed public nuisances, and shall be taken down as such, unless the external walls of such several parts shall be built in the manner and of the materials, and at least of the several heights and thicknesses hereinafter described for external walls of the rates such several parts shall be of when so divided; and unless also, that if the several parts shall remain adjoining, they shall also have such external walls, and shall be separated

rated from each other by such party walls as hereinafter directed, and shall be built in every respect as hereinafter required for buildings of the Rates to which they shall belong when so divided.

Foundations and Drains.

35. Footing to be laid on Maiden Foundations or on Concrete.

And be it Enacted, That the footing of every party wall, external wall and other wall of every house or building which shall be hereafter built, and of every addition or alteration of every house already built or which shall be hereafter built, shall be laid upon a natural solid stratum of ground, or upon a foundation of concrete at least *Eighteen* Inches thick and *Twelve* Inches wider than the bottom of such footing, such concrete to be composed of stone-lime and Thames ballast, broken stone, or flint or sharp clean gravel, mixed in the proportion of at least One Bushel of stone-lime to Eight Bushels of such ballast, stone, or flint or gravel; and that in the party walls, external walls or other walls of every dwelling-house, and of every addition or alteration thereto, already built or which shall be hereafter built, the two courses of brickwork immediately below the level of the bottom of the timbers of the lowest or first floor shall be of good sound stock bricks laid in good cement.

Two course of Brick-work below lowest Floor to be laid in Cement.

36. Houses not to be built above Ten Feet high till properly drained.

And be it Enacted, That every house or building which shall be hereafter built, and every addition to every house or building already built or which shall be hereafter built, shall be drained as hereinafter directed; and that the several walls thereof shall not be built higher than *Ten* Feet from their foundations before the drains of such house or building, or addition thereto, shall have been properly built and made good into the common sewer, if any, within One hundred Feet distance from such building into which it is lawful and practicable to drain, or otherwise into proper and sufficient cesspools, so as to render such drains available for the perfect drainage of the lowest floor of such house or building or addition thereto, and also of its areas, water-closets, privies and offices (if any).

37. Drains to be constructed for Houses already built,

on Notice from the Commissioners of Sewers.

And be it Enacted, That if any house or building already built shall not be drained in at least as sufficient a manner as hereinbefore directed for every house or building which shall be hereafter built, it shall be lawful for the Commissioners of Sewers in whose district the same shall be, to give *One Month*'s notice, signed by any Officer appointed by them for that purpose, to the occupier or owner of such house or building, requiring him within the time specified in such notice, to begin to construct a drain or drains in manner, and of the materials, and at least of the areas and currents hereinafter directed; and if the occupier or owner of such house or building shall refuse or neglect to begin to construct such drain or drains within the time specified in such notice, or shall thereafter fail to carry on and complete the same with all reasonable despatch, it

If the Owner neglects, then to be built by the Commissioners of Sewers,

Foundations and Drains.

who may distrain for Costs.

shall be lawful for the said Commissioners to construct the same, and to recover the expenses to be incurred thereby by distress and sale of the goods and chattels either of the present or any future occupier of such house or building, or of the owner thereof, by warrant under the hands and seals of *Six* or more of the said Commissioners; and any occupier who shall pay any monies for the construction of such drains as aforesaid, or of whose goods and chattels any distress or sale shall be made as aforesaid, shall be entitled to deduct such monies paid, and the amount of such distress or sale, and all expenses incurred by him in or about such construction, distress or sale, or on account thereof, from the rent by him payable to the owner of such house or building for which such drain shall be made.

38.

No Cesspool to be under a House.

Cesspools to be at least Three Feet clear and Five Feet deep.

No Cesspool to be used where there is a Common Sewer.

And be it Enacted, That no cesspool for the reception of drainage, or for any privy or water-closet, shall hereafter be built under any house or building, or the offices attached thereto, nor within *Five* Feet of the external walls of any such house, building or offices, and every cesspool shall be built with brickwork all round, at least *Eight and a Half* Inches thick, set in good mortar or cement, and properly domed over at the top, and of at least *Three* Feet diameter in the clear, and *Five* Feet deep below the bottom of the drains at their entrance thereto; nevertheless, it shall not be lawful to build or use any cesspool for the reception of drainage within *One hundred* Feet of a common sewer, unless there shall be or shall be built a good and sufficient drain from such cesspool to such common sewer: Provided always, That where no common sewer shall exist as aforesaid, within *One hundred* Feet of the building to be drained, or where it is not lawful or practicable to drain into such common sewer, it shall be lawful to build cesspools under any street or alley, but nevertheless not without the certificate in writing of the Surveyor, and of the Overseers of the poor of the parish or place in which the same shall be, stating that the construction of such cesspool will not be injurious to the public health.

39.

Every Dwelling to have a Water-closet or Privy.

Privies to be properly screened from public view.

And be it Enacted, That every dwelling-house, and every building used as a dwelling, already built or which shall be hereafter built, shall have at least One privy, either draining into a common sewer, or such cesspool as aforesaid, or a water-closet drained as aforesaid, and with water laid on, but no privy shall hereafter be built or formed within the walls of any such house or building; and every privy built in the yard or area of any house or building, or under any street or alley, shall have a door and be otherwise properly inclosed and screened and fenced from public view, to the satisfaction of the Surveyor.

40.

Houses not having Privies, &c. Surveyor or

And further be it Enacted, That as regards any houses or buildings already built, which shall not have any such privy or water-closet as aforesaid,

aforesaid, the Surveyor or the Churchwardens and Overseers in whose parish the same shall be, may give notice for the construction of the same as is before provided with respect to drains, and in default of the construction of such privy or water-closet in manner hereinbefore provided with respect to drains, the same may be built by the Churchwardens and Overseers, and the expenses thereof shall be recovered and paid and released in all respects as is herein provided with respect to drains to be made by the aforesaid Commissioners.

Churchwardens to give notice to build;

and if not built according to notice, Churchwardens, &c. to build and recover in the same manner as Drains.

41.

Drains to be Eighty Inches clear.

And be it Enacted, That the inside of the drains under and from every house or building for the carrying off of soil shall be of an area of at least *Eighty* square or superficial Inches, and every such drain shall be laid to a fall or current of at least *One Inch* to Ten Feet, and so that the whole of every such drain within the walls of such house or building shall be wholly covered over under the lowest floor and independently thereof; and every such drain within the walls of such house or building shall be built and covered over with brick, stone or slate, set in cement, so as to render the drain air-tight, and *Two-thirds* at the least of the lowest part of the insi de thereof shall be rendered with cement; and every part of such drain outside the walls of every house or building shall be built of brick, stone or slate, set in mortar or cement.

All Drains within Houses covered over below Floor with Brick, Stone or Slate, and set and rendered in Cement.

Outside Drains to be Brick, Stone or Slate, set in Mortar or Cement.

42.

Definition of Private Drains.

And be it Enacted, That all drains shall be deemed to be private drains to within *Three Feet Four Inches* of the point where they shall unite with the common sewer; and that all private drains, watercourses, cesspools and privies already built or which shall be hereafter built for any house or building shall be under the survey and control of the Surveyor and of the Overseers of the poor for the time being of the parish in which such house or building shall be, and shall be repaired, emptied and cleansed at the cost and charge of the owner or occupier of such house or building; and if such owner or occupier shall neglect to repair, empty and cleanse such private drains, watercourses, cesspools and privies within *Seven* Days after notice in writing for that purpose, signed by such Surveyor or by such Overseers of the poor, shall have been given to such owner or occupier, or left upon the premises, it shall be lawful for such Overseers of the poor, or such persons as they shall appoint, to enter upon and to cause the ground floors and pavements in any place or part they shall think fit of such house or building, or of any of the offices, yards, gardens or areas belonging thereto, to be opened, doing as little damage as may be, and to repair, empty and cleanse such private drains, watercourses, cesspools and privies; and all costs and charges occasioned thereby shall be paid by such Overseers out of the poor's-rate, and shall be repaid, levied and recovered

Private Drains to be under the Control of the Surveyor, Churchwardens and Overseers.

To be cleansed by Owner on Notice, or by Churchwardens and Overseers, if neglected.

And Churchwardens and Overseers to pay out of Poor's-rate, and recover.

recovered by them in all respects as hereinafter directed regarding ruinous houses and buildings.

Scantlings of Timbers, &c.

43. No Joists, Rafters or Purlins, more than Twelve Inches apart. No Joist to bear above Fifteen Feet. No Rafter or Purlin above Eleven Feet. No Joists bearing on Beams to be more than Twelve Feet long. No Trimming Joist above Five Feet to carry other Joists, except Staircase and Skylight. Partitions to be framed.

And be it Enacted, That in every house or building which shall be hereafter built, and in every addition or alteration to any house or building already built or which shall be hereafter built, no joists of any floor, or rafters of any roof, or quarters of any partition, shall be hereafter fixed or framed more than *Twelve* Inches apart; and that no joist of any floor shall have a longer bearing than *Fifteen* Feet, nor any rafter or purlin of any roof than *Eleven* Feet; and that no beams or girders of any floor shall be so laid that the joists bearing thereon shall have a longer bearing than *Twelve* Feet; and that no trimming joist of any floor, the bearing of which shall exceed *Five* Feet, shall be morticed or cut for any other purpose than for the framing thereinto of other trimming joists, except trimming joists for staircases and skylights, the scantlings of which shall be at least One-half more than those herein directed; and that the heads and sills, posts, braces and quarters of every partition shall be properly morticed and tenoned together, and be properly framed with heads and sills, and braced; and no timber, after it has been fixed in its place, shall be reduced in scantling without the consent of the District Surveyor.

44. The least Scantlings of Timbers for Floors.

And be it Enacted, That in every house or building which shall be hereafter built, and in every addition or alteration to any house or building already built, or which shall be hereafter built, no joist, trimming joist, beam or girder of any floor shall be of less scantling, according to the several bearings thereof, than the following; (that is to say)

Joists, with a bearing of—

6	feet to	8	feet,	shall	be	at least	6½	inch. deep, and	2	inch. thick.
8	„	10	-	„	-		8	„ -	2	„
10	„	12	-	„	-		9	„ -	2¼	„
12	„	15	-	„	-		10	„ -	2½	„

Trimming joists, with a bearing of—

6	feet to	8	feet,	shall	be	at least	6½	„ -	3	„
8	„	10	-	„	-		8	„ -	3	„
10	„	12	-	„	-		9	„ -	3½	„
12	„	15	-	„	-		10	„ -	4	„

Beams and girders, with a bearing of—

9	feet to	12	feet,	shall	be	at least	9	„ -	6	„
12	„	15	-	„	-		10	„ -	7	„
15	„	18	-	„	-		11	„ -	8	„
18	„	21	-	„	-		12	„ -	9	„
21	„	24	shall be cut, reversed, and bolted, and at least - - -				13	„ -	10	„

45. The least Scantlings of Timbers for Roofs.

And be it Enacted, That in the roof of every house or building which shall be hereafter built, or of any addition or alteration to

Scantlings of Timbers, &c.

to every house or building already built, or which shall be hereafter built, there shall—

Not be any purlin	- - - - - -	less than	5	inch.	deep and	4	inch.	thick.
Nor any - pole plate	- - - - - -	„	4	- „	- -	4	„	
Nor any - curb plate	- - - - - -	„	4	- „	- -	4	„	
Nor any - common rafter at the foot		„	4	- „	- -	2½	„	
Nor any - common rafter at the head		„	3	- „	- -	2½	„	

46. The least Scantlings for Partitions.

And be it Enacted, That in every house or building which shall be hereafter built, and in every addition or alteration to any house or building already built, or which shall be hereafter built, there shall not be any partition, the timbers of which shall be of less scantling, according to their several heights, than the following; (that is to say) partitions—

Under 11 feet high, shall have	heads and sills -	not less than	4	inch.	by	4	inch.
Ditto - - - - - - -	posts and door heads	„	4	„		4	
Ditto - - - - - - -	quarters - - - -	„	4	„		2½	
Ditto - - - - - - -	braces - - - -	„	4	„		3	
From 11 to 13 feet high, shall have - - -	heads and sills -	not less than	5	„		4	
Ditto - - - - - - -	posts and door heads	„	5	„		4	
Ditto - - - - - - -	quarters - - - -	„	5	„		2½	
Ditto - - - - - - -	braces - - - -	„	5	„		3½	
Above 13 feet high, shall have	heads and sills -	not less than	6	„		4	
Ditto - - - - - - -	posts and door heads	„	6	„		4	
Ditto - - - - - - -	quarters - - - -	„	6	„		2½	
Ditto - - - - - - -	braces - - - -	„	6	„		3½	

47. Girders or Bresummers in Party Walls to lay on Stone Templates,

and be carried by Piers, Columns or Story Posts.

And be it Enacted, That the end of every girder or bresummer which shall be hereafter fixed to carry any wall of any house or building which shall have a bearing upon a party wall, shall be laid upon an iron or upon a stone template or templates not less than *Six* Inches thick, and tailed all through such party wall; and the end of every such girder or bresummer shall not be fixed into and shall not have its bearing solely on such party wall, but shall be supported by a sufficient brick or stone pier, or iron column, or iron or timber story-post, fixed on a solid foundation; and if any such girder or bresummer shall have its bearing at both ends upon a party wall, then the same shall be supported by at least Two sufficient brick or stone piers, or iron columns, or iron or timber story-posts, fixed on solid foundations; and every such girder or bresummer shall be of such scantlings, and fixed and supported in such manner as shall be satisfactory to the Surveyor; and the ends of every girder or bresummer which shall have their bearing on any other wall than a party wall shall bear thereon at least *Nine* Inches.

Scantlings to be approved by the District Surveyor.

Girders and Bresummers on other Walls to bear at least Nine Inches.

48. Definition of External Walls.

And be it Enacted, That all outer walls of houses and other buildings now built or which shall be hereafter built wholly upon the ground of the owner of such houses or buildings, and not intended to be party walls, shall be and are hereby declared to be external walls within the meaning of this Act, whether the same shall adjoin or not to other outer or party walls.

49. External Walls: First Rate.

And be it Enacted, That every external wall which shall hereafter be built for any house or building of the First, Second and Third Rates, shall be built upon a footing the width of which shall be at the least *Nine* Inches more than the thickness of the wall immediately above the same, and the height of which above the foundation shall be at the least *One Foot*, and at the least of Four courses of bricks or stone, laid in Two double courses, diminishing equally on each side *Four Inches and a Half* to the top thereof, and the top of such footing shall be at the least *Six* Inches below the surface of the lowest ground or area adjoining thereto, and at the least *Twelve* Inches below the surface of the lowest or first floor of such house or building.

50. Thickness of Walls: First Rate.

And be it Enacted, That every such external wall for the First Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of *One Foot Ten Inches and a Half*; from thence up to the underside of the fourth floor, shall be at the least of the thickness of *One Foot Five Inches*; and from thence up to the underside of the plate under the gutter of such house or building, shall be at the least of the thickness of *Thirteen* Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of *Eight Inches and a Half.*

51. External Walls: Second Rate.

And be it Enacted, That every such external wall in the Second Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of *One Foot Five Inches*; from thence up to the underside of the plate under the gutter of such house or building, shall be at the least of the thickness of *Thirteen* Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of *Eight Inches and a Half.*

52. External Walls: Third Rate.

And be it Enacted, That every such external wall in the Third Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of *One Foot Five Inches*; from thence up to the underside of the gutter plate, shall be at the least of the thickness of *Thirteen* Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of *Eight Inches and a Half.*

53. External Walls: Fourth Rate.

And be it Enacted, That every external wall in the Fourth Rate of building, shall be built upon a footing, the width of which shall be at the least *Nine* Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be at the least *Nine* Inches, and at the least of Three courses of bricks or stone, laid in One double and One single course, diminishing equally on each side *Four Inches and a Half* to the top thereof; and the top of such footing shall be at the least *Six* Inches below the surface of the lowest ground or area adjoining thereto, and at the least *Twelve* Inches below the surface of the lowest or first floor of such house or building; and every such external wall, from the top of such footing to the underside of the gutter-plate, shall be at the least of the thickness of *Thirteen* Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of *Eight Inches and a Half.*

54. External Walls: Fifth Rate.

And be it Enacted, That every external wall in the Fifth Rate of building, shall be built upon a footing, the width of which shall be at the least *Nine* Inches more than the wall is thick immediately above the same; and the height of which above the foundation shall be at the least *Six* Inches, and at the least of Two courses of bricks or stone, laid in Two single courses, diminishing equally on each side *Four Inches and a Half* to the top thereof, and the top of such footing shall be at the least *Six* Inches below the surface of the lowest ground, or area adjoining thereto; and every such external wall, from the top of such footing to the top of such external wall, shall be at the least of the thickness of *Eight Inches and a Half.*

55. Height of External Walls above Gutters.

And be it Enacted, That every external wall shall be carried up and remain *One Foot Six Inches* at the least above the highest part of the gutter adjoining thereto, excepting where the roof of the house or building to which such wall shall belong shall overhang the same, in which case the wall shall be carried up of its full thickness to the underside of the plate of the roof; and the water from the roof shall be carried off as hereinafter directed, for preventing the drip of water.

56. Materials of External Walls.

And be it Enacted, That every external wall which shall hereafter be built for any house or building shall be built solid, of good, sound, well-burnt bricks, or good, sound stone, properly bonded, and set in good and well-compounded mortar or cement, and may, if thought fit by the party building, be faced, in addition to its thickness, with a good coating of cement, except such iron work as may be required for bonds and corbels; and except the ends of girders and bresummers, all of which shall be fixed at the distance of *Four* Inches at the least from the external face of such wall; and it may be lawful to insert, in openings left in such wall, the tiers of door-cases to warehouses, pro-

External Walls.

vided the same be fixed at the distance of *Four* Inches at the least from the face of such wall; also, the frames of doors and windows, provided the same be fixed in reveals, and recessed at least *Four* Inches from the face of such wall; also, such wood and iron work in the lowest or first floor, and in the ground floor, as may be required for bresummers, girders and story-posts, provided the same be fixed at least Two Inches from the face of such wall; and also, shop fronts, in such manner as hereinafter permitted.

57. External Walls, unless of proper thickness, &c. shall not become Party Walls, but adjoining Buildings shall have each an External Wall.

And be it Enacted, That no external wall of any house or building already built, or which shall be hereafter built, shall ever be used as a party wall, unless the same shall have such footings and be of such heights and thicknesses, and be built in such manner and of such materials as are herein directed for party walls of buildings of the highest Rate to which such wall shall adjoin; and if such external wall of any house or building shall not have such footings, nor be of such heights and thicknesses, nor be built in such manner and of such materials as aforesaid, then any house or building built adjoining thereto, not being such attached building or office as is hereinbefore described, shall have a distinct external wall, built as herein described for external walls of the Rate to which it shall belong.

58. Old External Walls or Inclosures may be repaired with the same Materials;

but must be pulled down altogether and rebuilt, if One-fourth is pulled down.

And be it Enacted, That every external wall or other external inclosure of any house or building already built, and not built of the materials required by this Act for external walls hereafter to be built, or other external inclosures hereafter to be built, may be at all times hereafter repaired with materials of the same sort or sorts as those of which such external wall or other external inclosure has been already built (except the inclosures of roofs, which, with the flats, gutters, dormers, turrets, lantern-lights or other erections thereon, shall be repaired with the materials hereinafter directed for the same); but in case any such external wall or other external inclosure shall be at any time hereafter taken down or otherwise demolished for the height of One story, or for a space equal to *One-fourth* the surface thereof, then every part thereof not built in the manner and of the several materials hereinbefore directed for external walls shall be taken down, and the same shall be rebuilt in such manner and of such materials and in all respects as is herein directed for external walls hereafter to be built, according to the Rate of the house or building to which such external wall or other external inclosure shall belong.

Projections over Public Ways, &c.

59. No projections over Public Way,

And be it Enacted, That no part of any house or building which shall be hereafter built or rebuilt, nor any projection therefrom, nor any steps, cellar doors or area inclosures, shall overhang or encroach upon any public way, or upon ground belonging to any other owner, without the consent in writing of such owner; but the walls of such house

Projections over Public Ways, &c.

house or building shall be set back, so that all projections therefrom shall only overhang the ground of the owner of such house or building; nevertheless, it shall be lawful (notwithstanding any Act heretofore passed to the contrary) to build the portico of any church, chapel or other public building over the foot pavement of any street or alley, provided such street or alley shall be *Fifty* Feet wide at the least, and provided the building of the same shall be previously sanctioned by any Two or more of the Justices of the Peace; and it shall be competent to any such Justices to determine what shall be considered as a public building.

except for Public Buildings.

60. Projections may be made from Face Walls,

And be it Enacted, That no bow-window nor other projection of any sort or kind, shall be built with or added to any house or building already built, or which shall be hereafter built, on the face or faces thereof, in any street or alley, so as to extend beyond such line as shall be deemed the general line of the fronts of the houses in such street or alley by the Surveyor or by the Official Referees, except overhanging roofs, copings, cornices, columns, pilasters and entablatures, facias, door and window dressings and other architectural decorations, verandahs of light open iron-work, balconies, porticoes, shop fronts, open inclosures to open areas, steps and waterpipes; but it may be lawful to build bow-windows and other projections from all other external walls, provided the same shall not overhang or encroach upon any public way or upon ground belonging to any other owner: Provided nevertheless, That all such projections from any house or building on the face or faces thereof in any street or alley, or from any other external wall thereof, shall be built so as not to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the houses or buildings adjoining thereto on any side thereof; and if any doubt shall arise as to what shall be deemed the general line, then any owner or occupier of any house in any such street or alley may have the question referred to the Official Referees, whose decision shall be final, and the party requiring such reference shall pay all costs and fees relating thereto.

and from other External Walls,

if not injurious to neighbours.

61. Materials of Projections.

And be it Enacted, That all cornices to overhanging roofs, parapets, blocking courses, copings, cornices, columns, pilasters and entablatures, facias, door and window dressings, and other architectural decorations projecting from external walls, shall be built and may be faced in the manner and of the several materials hereinbefore directed for building and facing external walls; and that all balconies, porticoes, inclosures to open areas and steps, and all other projections from external walls, shall be built of brick, stone, artificial stone, slate, cement or metal, except such wood-work as may be necessary for shop fronts and for the frames and sashes of windows and for doors; and excepting always houses and buildings which shall be at least

Projections over Public Ways, &c.

Twenty Feet from any public way, and at least *Twenty* Feet from any other house or building not in the same occupation, the projections from which may be made of any material whatever.

62. Shop Windows in Streets Thirty Feet wide;

And be it Enacted, That it may be lawful to build with or add to any house or building, in any street or alley of the width of *Thirty* Feet or more (ascertained as hereinbefore directed), a shop front of which no part shall be higher than *Fifteen* Feet above the level of the public foot-pavement in front of the door thereof, and of which no part, except the cornice, shall project more than *Ten* Inches, and of which the cornice shall not project more than *Eighteen* Inches from the vertical line of the front brickwork of such house or building; and also that it may be lawful to build with or add to any house or building, in any street or alley from *Fifteen* Feet to *Thirty* Feet wide (ascertained as hereinbefore directed), a shop front of which no part shall be higher than *Fifteen* Feet above the level of the public foot-pavement in front of the door thereof, and of which no part, except the cornice, shall project more than *Five* Inches, and of which the cornice shall not project more than *Thirteen* Inches from the vertical line of the front brickwork of such house or building; and all shop fronts may be built of any materials whatever; but no wood-work of any shop front shall be fixed nearer than *Four Inches and a Half* to the centre line of any party wall, nor shall any part of any sign or notice board be fixed against or upon any part of any house or building above *Three* Feet from the top of the shop front, if any shop front there shall be, and if more than above *Eighteen* Feet from the level of the street or alley.

Fifteen Feet to Thirty Feet wide.

Roofs, Materials for Roofs, and Water therefrom.

63. Roofs of Warehouses to pitch up against Party Wall.

And be it Enacted, That in every warehouse which shall be hereafter built or new roofed, there shall not be laid or formed any gutter against any party wall belonging to such warehouse parallel thereto, but the roof thereof shall be made to pitch up against every such party wall, and such party wall shall be at least *Five* Feet high above the end of any gutter which shall abut against it, and no part of the roof shall rise above the top of the party wall.

64. Materials of Roofs, &c.

And be it Enacted, That all the external parts of every roof, flat and gutter of every house and building, and of every projection therefrom, which shall be hereafter built, stripped, ripped or uncovered; and that every turret, dormer, lantern, light and other erection which shall be hereafter built or uncovered on the roof or flat of any house or building, shall be covered with slate, tiles, metal, glass, artificial stone or cement, except such wood as may be necessary for the door-frames and doors, window-frames and sashes of such turrets, dormers, lanterns, lights or other erections; and that the water which shall come from the roof, flat and gutter of every house or building, and from the roof, flat and gutter of every projection therefrom,

Water, how to be conveyed from Roofs.

therefrom, and from balconies, verandahs and shop fronts, shall not be allowed to drip, but shall be conveyed from thence into cisterns, tanks or butts, or drains by metal gutters and pipes, and such gutters and pipes shall be laid below the pavement wherever it may be necessary to cross any public way.

Chimneys.

65. Chimneys to be built from Foundations,

And be it Enacted, That every chimney and chimney-stack which shall be hereafter built, shall be built on foundations and footings similar to those of the wall in or adjoining to which such chimney or chimney-stack shall be; and that the brickwork of every flue which shall be hereafter built in a party wall, shall be built from the foundation of such wall of the full thickness required for such flue, so that the brickwork of such flue shall not in any part thereof oversail or overhang any part of such party wall; and that whenever any Two or more flues shall be built in one stack, every such stack shall be built from the foundation to the top thereof without any gathering or corbelling over, whereby any upper part of the brickwork of such stack shall oversail or overhang any lower part of the brickwork of the same, either on the front or sides thereof: Provided nevertheless, That it shall be lawful to build above the ceiling of the fifth floor of every house and building of the First and Eighth Rates, and above the ceiling of the third floor of every house and building of the Second, Third and Fourth Rates, the jambs, breast and flue of any single chimney upon brick, stone or iron corbels, provided the projection of such jambs and breast shall not exceed *Nine* Inches before the face of the wall or stack to which the same shall adjoin.

and not to oversail any part of Party Wall.

Chimney Stacks not to be gathered or corbelled over;

but Single Flues may be on Corbels in the Upper Floors.

66. Materials of Flues and Chimneys.

And be it Enacted, That the jambs, breast and back of every chimney, and the front, back, with or partition of every flue which shall be hereafter built, shall be built at least *Eight Inches and a Half* thick, of good, sound, well-burnt bricks, properly bonded, and the joints of the work filled in with good mortar or cement, and all the insides thereof rendered or pargetted.

67. No Timber to be placed over any opening.

And be it Enacted, That the jambs of every chimney opening which shall be hereafter built, shall not be less than *Eight Inches and a Half* wide on each side of such opening, and that no timber whatever shall be placed over any such opening, for supporting the breast thereof, but there shall be an arch of brick or stone and an iron bar or bars over the opening of every such chimney to support the breast thereof, such bars to be built into the jambs at least *Four* Inches on each side, and every opening of every such chimney in the first or lowest floor exceeding in width *Three Feet Ten Inches*, shall have iron-framed cradle-bars over the same, built into the jambs at least *Nine* Inches on each side, and no timber or woodwork whatever shall be laid nearer than *Nine* Inches to the opening of

Arches and Iron Bars.

No Woodwork to be fixed to Breast.

of any chimney, nor to the inside of any flue, and no timber or wood-work whatever shall hereafter at any time be affixed to the front of any jamb or mantle, or to the front or back of any chimney or flue, except such timber or wood-work be affixed by iron nails or holdfasts or other iron fastenings, such iron nails, iron holdfasts or other iron fastenings not to lie or be driven more than Three Inches into the wall against any chimney or flue, or nearer than Four Inches to the inside of the opening of any chimney or flue.

68. Chimney openings to have Slabs and Trimmers.

And be it Enacted, That every chimney which shall be hereafter built, shall have a slab or slabs of brick, tile, stone, slate, marble or iron laid before the opening, and at least *One Foot* longer than such opening when finished, and *Eighteen* Inches in front of the arch over the same; and such slab or slabs shall be laid wholly on brick, stone or iron trimmers, of at least the same breadth and length, except in a lowest or first floor, where they may be laid on a brick fender, or bedded on the solid ground.

69. Backs of Chimneys in External Walls.

And be it Enacted, That the back of every chimney opening which shall be hereafter built in any house or building, either being or not being in a party wall, shall be in the lowest or first floor at least *Thirteen* Inches thick from the hearth to the height of *Eighteen* Inches above the mantle, and shall be at least *Eight Inches and a Half* thick in every other floor; nevertheless, in the lowest or first floor of buildings of the Third, Fourth and Fifth Rate of Buildings, the backs of such chimney openings may be at the least *Eight Inches and a Half* thick; and nevertheless, the back of every such chimney opening, not being in a party wall, may be *Four Inches and a Half* less than the several thicknesses above described when built against an adjoining wall.

70. Thickness of Backs of Chimneys in Party Walls.

And be it Enacted, That in all chimney openings which shall be hereafter built back to back, the thickness between the same shall be at the least of the thickness hereinbefore described for the back of one chimney opening.

71. Construction of Flues as to angle.

Iron Soot Doors.

And be it Enacted, That no flue shall be hereafter built with any angle which shall be less than *One hundred and thirty-five* Degrees, unless the same be provided with proper openings not less than *Nine* Inches square, and proper close iron doors and frames inserted in such openings, whereby such flue may be swept by machinery; and every salient or projecting angle within such flue shall be rounded off *Four* Inches at the least, and shall be protected by a rounded iron bar.

And

72. No Oven or Furnace within One Foot of a Party Wall, nor Two Feet of Timber, and Floor to be paved Two Feet all round.

And be it Enacted, That it shall not be lawful to build or fix any oven or furnace used for manufacture, or any cokel or close fire within a distance of *One Foot* of any party wall, nor upon nor within a distance of *Two* Feet of any timber or wood-work; and the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, shall be formed and paved under and for a distance of *Two* Feet all round the same with stone, brick, tile or iron.

73. No Flue to be less than Three Feet above Roof.

All Flues above Roof to be Nine Inch work.

No Flue to exceed Ten Feet without District Surveyor.

And be it Enacted, That every flue in every party wall already built which shall be raised or repaired, and in every party wall which shall be hereafter built, shall be carried up in brick or stone-work to a height of not less than *Three* Feet above the highest part of such portion of the roof as shall adjoin thereto at the point of junction; and that the brick or stone-work around every flue above party or other walls shall be at least *Nine* Inches thick all round from *Nine* Inches above the slope, flat or gutter of the roof where it adjoins thereto; and that no brick or stone-work of any such flue or chimney-shaft be built higher than *Ten* Feet above the slope, flat or gutter of the roof where it adjoins thereto, unless the same be secured by iron stays, or be built with and bonded to any other chimney-shaft, to the satisfaction, in both cases, of the Surveyor; excepting always the chimney-shaft for any steam-engine, brewery, distillery or manufactory, which may be erected of any height without iron stays, provided they shall be of such additional strength and dimensions, and be built in such manner as shall be satisfactory to the Surveyor.

74. No Pots or Tubes to exceed Six Feet, and to be let Two Feet into the Flue.

And be it Enacted, That no earthen or metal chimney-pot, tube, funnel or cowl of any description whatever, shall be fixed, the top of which shall be higher than *Six* Feet above the brick or stone-work of the flue on which the same shall be placed; and every such earthen or metal chimney-pot, tube or funnel shall be let down and fixed at least *Two* Feet into the brick or stone-work of the flue on which the same shall be placed.

75. No Funnel for Smoke next Street.

And be it Enacted, That no metal or other pipe or funnel for conveying smoke or steam shall at any time hereafter be fixed against or in front of any face of any house or building in any street or alley, nor on the inside of any house or building, nearer than *Fourteen* Inches to any timber or other combustible material whatever.

76. Owner to build Chimney Breasts, &c., in new Party Wall, for adjoining vacant Ground.

And be it Enacted, That when the owner or occupier of any piece of vacant ground shall have obtained the consent of the owner or occupier of the adjoining ground to the building of a party wall as herein directed, he shall give *One Month*'s notice at the least

least to the owner or occupier of such adjoining ground, previously to beginning to build such party wall; and on receiving instructions in due time in writing, or by a plan from the owner or occupier of such adjoining ground, he shall construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party wall as shall be by such instructions required; and shall also leave such recesses in every such wall as may be so required, provided the same accord with the directions hereinafter contained for building party walls and chimneys: And provided always, That the person building such party wall shall be entitled to recover from the owner or occupier of such adjacent ground all expenses of constructing any such chimney-jambs, breasts and flues of chimneys and recesses in any such party wall, for the benefit of such owner or occupier, in the like manner and with and subject to the like powers and remedies as are hereafter provided for the recovering of the expenses of constructing party walls.

77. Chimneys not to be cut into.

And be it Enacted, That no chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, shall be cut into for any purpose other than the repair thereof, except in the case herein directed for cutting away such portion of the breasts and chimney-shafts of an old sound party wall, as may be required for the purpose of building an external wall against the same.

78. Definition of a Party Wall.

And be it Enacted, That every wall which shall be intended as a separation of one house or building from another house or building, or which shall be built upon, or shall stand upon ground not wholly belonging to or held by the same person, shall be and is hereby declared to be a party wall within the meaning of this Act.

New Party Walls.

79. Directions as to Party Wall.

And be it Enacted, That every party wall which shall hereafter be built for any house or building of the First, Second or Third Rate, shall be built upon a footing, the width of which shall be at the least *Nine* Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be at the least *One Foot*, and at the least of Four courses of bricks or stone, laid in Two double courses, diminishing equally on each side *Four Inches and a Half* to the top thereof; and the top of such footing shall be at the least *Six* Inches below the surface of the lowest ground or area adjoining thereto, and at the least *Twelve* Inches below the surface of the lowest or first floor of such house or building adjoining or intended to adjoin thereto; and every such party wall which shall be built for any house or building of the First or Second Rate, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of *One Foot Ten Inches and a Half*, and from thence up to the top of such party wall shall be at the least of the

the thickness of *One Foot Five Inches*; and every such party wall which shall be built for any house or building of the Third Rate, from the top of such footing to the underside of the fourth floor, shall be at the least of the thickness of *One Foot Five Inches*, and from thence up to the top of such party wall shall be at the least of the thickness of *Thirteen* Inches.

80. Party Wall of Fourth Rate and Fifth Rate.

And be it Enacted, That every party wall which shall hereafter be built for any house or building of the Fourth and Fifth Rates shall be built upon a footing, the width of which shall be at the least *Nine* Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be at the least *One Foot*, and at the least of Three courses of bricks or stone laid in One double and One single course, diminishing equally on each side *Four Inches and a Half* to the top thereof, and the top of such footing shall be at the least *Six* Inches below the surface of the lowest ground or area adjoining thereto, and at least *Twelve* Inches below the surface of the lowest or first floor of such house or building, or of any house or building adjoining or intended to adjoin thereto; and every such party wall from the top of such footing to the top of such party wall shall be at the least of the thickness of *Thirteen* Inches, except in a warehouse of the Fourth Rate, where the same shall be at the least of the thickness of *One Foot and Five Inches* up to the ceiling of the lowest or first floor.

81. Heights of Party Walls above Roofs.

And be it Enacted, That every party wall which shall hereafter be built for any house or building, and every addition or enlargement of every such party wall, or of every party wall already built, shall be carried up and remain *One Foot Six Inches* at the least above any roof which shall gable against or adjoin to such party wall, measuring from where they adjoin, or from and at a right angle with the back of the rafters of such roof, and *Two* Feet at the least above any gutter adjoining to any such party wall; and in case any turret, dormer, lantern, light or other erection is or shall be fixed in or upon the flat or roof of any house or building within *Five* Feet of any party wall, then every such party wall shall be carried up against every such turret, dormer, lantern, light or other erection, and shall extend *One Foot Six Inches* higher and *One Foot Six Inches* wider than any such erection.

Heights of Party Walls above Dormers, &c.

82. Materials of Party Walls.

And be it Enacted, That every party wall which shall hereafter be built for any house or building shall be built solid, of good, sound, well-burnt bricks, or good, sound stone, properly bonded, and set in good and well-compounded mortar or cement, except the flues, and except such iron-work as may be required to carry the ends of girders, bresummers, trimming joists, and principal timbers of roofs; and

and the ends of all such girders, bresummers and other timbers shall be carried upon iron shoes or stone corbels, built into the wall at least *Two-thirds* of the thickness thereof, to receive them, as shall also all trimming joists lying against such party wall; and every such party wall shall be finished at top with a stone coping or a tile creesing, and One course of sound stock bricks set on edge with good cement

83. All Houses and Buildings to be separated by Party Walls.

And be it Enacted, That every house or building which shall be hereafter built adjoining to any other house or building, and any part of every house or building which shall be hereafter built adjoining to any part of any other house or building, shall be divided from such other house or building and every part thereof by a party wall, built *One-half* on the ground of one owner, or appertaining or belonging to the one of such houses or buildings, and *One-half* on the ground of the other owner, or appertaining or belonging to the other of such houses or buildings, and also built in the manner and of the materials, and of the several heights and thicknesses herein directed for party walls of the highest rate of building to which such party wall shall adjoin when both of such houses or buildings shall be completed, and to extend to the outer surfaces of the external walls of each adjoining house or building, except such other house or building, or part thereof, shall have a sound party wall, not of the thicknesses required by this Act, or an external wall; in either of which cases every house or building or part thereof so to be built shall have an external wall built entirely on the ground of the owner thereof, or appertaining or belonging to such house or building, and against such other sound party wall or external wall of the other house or building, in manner herein directed for external walls.

84. Party Walls next vacant Ground.

And be it Enacted, That when the owner or occupier of any piece of vacant ground, or ground not hitherto built upon, shall be desirous to build any house or building adjoining to another piece of vacant ground, or ground not hitherto built upon, or to build a fence wall for such piece of ground, he shall give to the owner or occupier of such adjoining vacant ground a notice in writing of such his desire, *One Month* at least before commencing to build, and also a like notice in writing, should he desire to build a party wall or party fence wall, describing therein the thicknesses and dimensions of such desired party wall or party fence wall; and if the owner or occupier of such adjoining vacant ground shall signify his consent in writing to the building of such party wall or party fence wall, then *One-half* the same shall be built on the ground of one of the said owners or occupiers, and the other half on the ground of the other owner or occupier, which other half shall be paid for as is hereinafter directed by such other owner or occupier; but if he shall not signify in writing his consent to the building of such party wall or party fence wall, then the

the owner or occupier desirous to build, shall build an external wall for such house or building, and fence wall for such ground, entirely upon his own ground, in manner herein directed for external walls and fence walls.

85. Party Walls, Party Arches, &c. between intermixed Properties.

And be it Enacted, That when any houses or buildings already built, having rooms or floors the property of different owners, which lie intermixed without being separated by any party wall or party arch, or stone floor, shall be altogether or in any part rebuilt, such intermixed properties shall be separated from each other where they adjoin vertically by a party wall built in the manner, and of the materials, and of the several heights and thicknesses hereinbefore described for party walls of the highest rate of the building to which such party wall shall adjoin, and where they adjoin horizontally they shall be separated by a floor formed of iron girders and brick arches or stone landings, or by a party arch or party arches of brick or stone of the thickness of *Thirteen* Inches at the least; and such floor or party arch or party arches shall be built with such abutments and in such manner as shall be approved of by the Surveyor.

86. Houses or Buildings over Public Ways.

And be it Enacted, That when such part of any house or building as extends over any public way shall be rebuilt, the same shall be separated from such public way by a floor formed of iron girders and brick arches, or stone landings, or by an arch formed of brick or stone of the thickness of *Thirteen* Inches at the least, and such floor or arch with its abutments shall be built in such manner as shall be approved of by the Surveyor; and in no case shall there be formed over any public way a ceiling of lath and plaster, or of lath and cement.

87. Recesses in Party Walls.

And be it Enacted, That no recess or cavity shall be left in any party wall or party arch, or in any addition to or enlargement thereof, which shall hereafter be built for any house or building, so as to reduce such wall or arch in any part thereof to a less thickness than is herein directed for party walls or party arches, except such as may be necessary for chimney openings, flues, stone or iron shoes or corbels, and iron story-posts; and no chase or recess or toothing shall be left in any party wall to receive the end of any other wall or pier, but instead thereof, a tongue or projection at least *Four* Inches by *Four* Inches shall be formed and built with such party wall, or added thereto with cement.

88. No openings for Windows, &c., to be made in External Walls abutting on other Ground.

And be it Enacted, That it shall not be lawful to make or cut any opening, for the purposes of light or otherwise, in any external wall of any house or building which shall abut upon the ground of any other owner; nor to make or cut any opening, for the

nor in upper part of Party Walls.

the purposes of light or otherwise, in such portion of any party wall as shall rise higher than the house or building which it may adjoin, without the consent in writing of the owner of the ground, or house or building adjoining to such external wall or party wall; and

If made, the adjoining Owner may stop them up.

if any such opening shall be made in any such external wall or party wall without the consent of the owner of the adjoining ground, house or building as aforesaid, then it shall be lawful for such owner to require in writing that the same shall be stopped up with brickwork, and if the same shall not be done within *One Month* after such notice, then it shall be lawful for such owner, by himself or his workmen, to enter on the premises at all seasonable times, and to cause such opening to be stopped as aforesaid, and to recover the costs thereof (such costs to be settled by the Official Referees, by their certificate) against the owner or occupier in any of Her Majesty's Courts of Record at Westminster.

89. For what purposes Party Walls may be cut into.

And be it Enacted, That no party wall nor party arch shall be cut into except for the repair thereof, and except for the cutting off the footings, chimney-jambs and breasts, as herein may be allowed for building external walls against the same, and except for the insertion of chimney-jambs, withs of flues, iron story-posts, templates, landings, stone steps, corbels and iron shoes; but no party wall nor party arch shall be cut into for any of the purposes aforesaid if the cutting thereof will, in the opinion of the Surveyor in whose district the same shall be, injure or endanger the same, or any of the chimneys or flues attached to or inserted therein; and whenever any party wall or party arch shall have been cut into for any of the purposes aforesaid, or if any defect or damage shall have arisen therefrom, the same shall be immediately restored, and well and effectually repaired and made good, and pinned up with brick, stone, slate and tile, or any of them, bedded in cement, by or at the cost of the person so cutting into the same.

Old Party Walls, when not ruinous and decayed.

90. Old sound Party Walls not to be condemned for insufficient thickness.

And be it Enacted, That no old sound party wall, or party wall which shall not have been found decayed and ruinous, shall be condemned for insufficiency of thickness, but when either of the houses or buildings to which such party wall belongs shall be rebuilt, the owner of the house or building so to be rebuilt shall build a wall against such party wall, in the manner and of the materials and of the several heights and thicknesses hereinbefore directed for external walls of the rate to which such house or building shall belong; and such owner may for that purpose cut off the footings of such party wall on the side next the wall so to be built; and the owner of such house or building shall give *One Month*'s notice in writing to the owner or occupier of the adjoining house or building of his intention to rebuild his house or building, and to build a wall against such party wall, and of his desire

Owner to give One Month's notice.

to

Old Party Walls, not ruinous, &c.

to cut away such portion of the footings, and of the breasts and chimney-shafts belonging to the house or building about to be rebuilt, as shall project beyond the perpendicular face of such party wall in the lowest floor thereof; and from and after the expiration of such notice it shall be lawful for the owner of the house or building to be rebuilt, to cut away such portion of the footings, breasts and chimney-shafts aforesaid, provided the same be done, and the brickwork where cut be made good again in cement, under the superintendence and to the satisfaction of the Surveyor; and in case such party wall shall be so damaged and injured by such cutting away, as in the opinion of the Surveyor or of the owner or occupier of either of the houses or buildings adjoining thereto, to be ruinous or dangerous, then the same shall be surveyed, and if condemned shall be pulled down and rebuilt as a party wall, in manner herein directed with respect to the condemning ruinous and defective party walls; but if such damage or injury shall have been occasioned, in the opinion of the Surveyor and Official Referees surveying the same, by the neglect of, or the want of proper care or of proper shoring by the owner or occupier of the house to be rebuilt, then and in such case, all the costs and expenses attendant on such survey, and on the pulling down and rebuilding of such party wall, and on the reinstating and making good all the internal finishing and decorations damaged thereby, shall be borne and paid by such owner or occupier; and if such owner or occupier shall not proceed with all due despatch to pull down and rebuild such party wall, and to reinstate and make good all the internal finishings and decorations, and to pay the costs and charges and expenses of the survey, then it shall be lawful for the owner or occupier of the adjoining house or building to do so, and to recover all the costs and expenses arising therefrom, from such owner or occupier, his heirs, executors, administrators or assigns, in manner hereinafter directed for recovering the expenses of party walls.

After One Month, to cut away Chimney Breasts, &c.

If damaged, then to be condemned.

If wilful, then to be paid for by first Owner;

but second Owner may pull down if delayed.

91.

In case of future rebuilding of adjoining House.

And be it Enacted, That when any house or building shall have been rebuilt with an external wall against a party wall which shall not have been found ruinous and decayed, and shall not have been condemned for insufficiency of thickness, such wall shall be deemed to remain as a party wall until the adjoining house or building shall be pulled down or rebuilt (if such party wall shall so long continue sound), and when such party wall shall be pulled down, the owner of such adjoining house shall not be entitled to more than *One-half* the materials thereof, nor to more than *One-half* the ground on which such party wall was built, nor shall he build on more than the *One-half* of the said ground, unless he shall have agreed with and satisfied the owner of the house or building so previously rebuilt for his half thereof; and in case the said owners cannot agree concerning the division of such materials or ground or the building thereon, or the reimbursement

Old Party Walls, Walls when ruinous or decayed.

of the party first rebuilding as aforesaid, the price and all matters in difference shall be settled by a reference to the Official Referees, whose decision shall be final.

92.

And be it Enacted, That every notice by this Act required to be given to the owner of any house, building or ground, shall, if such owner be a married female, be given to the husband of such married female; or if such owner shall be an infant, idiot or lunatic, then to the guardian, trustee or committee of such infant, idiot or lunatic; or if such owner, husband, trustee, guardian or committee is not known or cannot be found, then to the occupier of such house, fence, building or ground, or if such house, building or ground be unoccupied, then shall be affixed to some conspicuous part of such house, building, fence or ground at a height of not more than *Nine* Feet from the ground; and every such notice when so given to such persons respectively as aforesaid, or left at the usual or last place of their respective abodes, or when so affixed as aforesaid, according to the cases hereinbefore mentioned, shall have the same effects and consequences to all intents and purposes as if given to the actual owner, and any notice hereby required to be given to any of the parties aforesaid may be left at their usual or last place of abode.

93.

Old Party Walls and Party Arches, when decayed, may be rebuilt at any time, or when one or both Houses are pulled down.

And be it Enacted, That when any party wall, party arch or external wall of any house or building used wholly or in part as a party fence wall shall be defective or so far out of repair as to render it necessary to pull down and rebuild the same, or some part or parts thereof, as well when neither of the adjoining houses or buildings may require to be rebuilt, as when the said houses or buildings, or one of them, may be required to be rebuilt, then any owner or occupier of any house or building, or of any ground adjoining such defective wall, who shall think it necessary to repair, pull down or rebuild the same, or any part thereof, shall, (in case the owner or owners of the adjoining house or building or ground will not, or by reason of any legal disability or otherwise cannot agree touching the repairing or pulling down or rebuilding the same), give *Six* Weeks' notice in writing to the owner or occupier of such adjoining house or building or ground, of such his intention to repair or pull down such party wall or party arch or external wall, or any part thereof, which notice shall state the fact of such party or external wall or party arch, or some part thereof, being so far out of repair as to render it necessary to repair or pull down and rebuild the same, or some part thereof, and that the party giving such notice desires that the same shall be referred to the Official Referees, and thereupon the same shall be referred to such Referees, who shall within *Ten* Days after the expiration of the said *Six* Weeks proceed to view such party wall or party arch or external wall, and certify the state and condition thereof; and

Parties desiring to pull down, to give Six Weeks' notice to Owners.

Old Party Walls, ruinous, &c.

and in case they shall certify in writing under their hands that the party wall or party arch or external wall described in such notice, or any part thereof, is decayed and ruinous, or is not sufficiently secure against fire, and that the same ought to be repaired or pulled down, then a copy of such certificate signed by the said Referees within *Three* Days next after such certificate being signed shall be delivered to the owner or occupier or owners or occupiers of, or left at such adjoining house or building or ground, or fixed on the door or other conspicuous part thereof as herein directed for the first notice; and such certificate shall be immediately filed with the Clerk of the Peace; and every such certificate shall be as binding and conclusive in all respects, and shall have the same effect and confer the same powers, to be enforced by the same penalties, and be exercised, subject to the same restrictions, and in the same manner in all respects as hereinafter directed concerning certificates to be made in matters of intermixed properties; and such wall shall be built in the manner hereinbefore described for party walls, party arches and external walls of the highest rate of building to which such wall shall adjoin, such party walls to be built *One-half* on the ground of one owner and *One-half* on the ground of the other owner: Provided, That nothing herein contained shall render it lawful for the party who shall think it necessary to repair or pull down or rebuild such party wall, party arch or external wall to commence such pulling down, repairing or rebuilding, or to enter into or upon the adjoining house or building for that purpose, without the consent of the owner thereof, until the expiration of *Six* calendar Months after the date of the notice hereinbefore directed to be given.

Walls being ruinous, if majority shall certify the Wall ruinous, then a Copy of Certificate to be delivered to the Owner, &c. in Three Days;

or to Occupier;

or fixed on Door, and Certificate filed;

but in no case till Six Months after first Notice.

Timber Partitions.

94. Timber Partitions to be taken down when one House or one Front, or one-fourth of one Front is taken down;

but may be pulled down whenever either party may wish a Party Wall, on giving Six Months' Notice.

After Six Months Owner may pull down, and have power of entry

And be it Enacted, That where any house or building shall have a good and sound timber partition between the same and any other house or building, such timber partition may remain until one of the said houses or buildings shall be rebuilt, or shall have one of either of its fronts taken down the height of one floor, or for a space equal to one-fourth of such front from the level of the second floor upwards, or until such timber partition shall be condemned pursuant to the directions herein contained concerning ruinous or defective walls and party partitions; but if the owner of either of the houses or buildings divided by such timber partition shall be desirous to pull down and remove the same, and build a party wall in the place thereof, it shall be lawful for him to do so, provided that he shall give *Six* Months' previous notice in writing to the owner of the adjoining house or building of his intention to pull down such timber partition, and instead thereof to build a party wall agreeably to this Act; and from and after the end of *Six* Months from the date of such notice, it shall be lawful for the owner of such house or building to pull down the said timber partition, and the wall under or over the same, if any such there be, and to have and exercise the like power of entry into and upon the said

Timber Partitions.

adjoining house or building and ground, or of breaking open the same, in the presence of a peace officer, in case the same be unoccupied or be refused to be opened, and of removing any wainscot, shelves, furniture or other things, and of shoring up the said adjoining house or building as by this Act is given and allowed to the owners of intermixed properties, and shall and may in the place of such timber partition and of the wall under or over the same, if any such there be, build a new party wall in the manner, and of the materials, and of the several heights and thicknesses hereinbefore described for party walls of the highest rate of building to which such party wall shall adjoin, with such right of recovering one-half the cost thereof as is herein directed in respect of party walls.

as in intermixed Property, and may build a Party Wall,

and recover half Cost thereof.

Party Fence Walls.

95. Party Fences not to exceed Nine Feet without consent,

and may be rebuilt by either Party at his own Cost.

And be it Enacted, That no fence or party fence, of any material whatever, between the ground of different owners shall exceed a height of *Nine* Feet above the ground on either side thereof without the consent of all such different owners; and that no party fence wall shall be less than *Eight Inches and a Half* thick; and it shall be lawful for the owner of the ground on either side of a party fence or party fence wall to raise or pull down and rebuild the same at his own proper cost and expense, to any height not exceeding *Nine* Feet above the ground on either side thereof.

96. Party Fence Walls not to be used as a Party Wall unless of sufficient thickness; but may be pulled down without Survey, and must be rebuilt as a regular Party Wall by person requiring to make alteration.

Owner of the other side must pay proportion of Expense if he uses it other than Fence Wall.

First Builder not to lose right of soil.

And be it Enacted, That no party fence wall shall be used as a party wall unless the same shall be built in the manner and of the materials, and of the several heights and thicknesses hereinbefore described for party walls, of the rate of the building to be erected against the same; and in case such wall shall not be so built, or that there shall be only a wooden party fence, then the owner or occupier of either of the adjoining tenements shall be at liberty, at his own expense, to take down such wall or fence and erect a new party wall in lieu thereof, making good every damage that may accrue to the adjoining premises by such rebuilding, so nevertheless that such new party wall shall have its centre upon the old centre line of the old party wall or party fence; but no owner or occupier of such adjoining premises shall make use of such party wall otherwise than as a party fence wall, unless he pay a proportionate share of the whole expense of erecting such parts of such wall, according to the use he shall make of the same at the rates aforesaid: Provided also, That in case any party wall shall extend further upon the ground of the owners building the same than the party fence or party fence wall did, yet the party rebuilding the same shall not thereby lose any part of the soil whereon such party wall shall be built, nor shall the owner of the other part of such party wall claim to be entitled by reason of such rebuilding to any right of soil more than what he was before entitled to.

84.

How ruinous Fences, Party Fences, and Party Fence Walls to be condemned.

And be it Enacted, That every owner or occupier who shall think it necessary for any fence, party fence or party fence wall, or any part thereof adjoining to his ground, or between his ground and the ground of another owner, to be repaired, pulled down, rebuilt or refixed, shall (in case the owner or occupier of such adjoining ground will not, or by reason of any legal disability or otherwise cannot, agree touching the same,) give *One Month*'s notice in writing to the Surveyor and to the owner of such adjoining ground, in manner before provided, of his desire to have such fence, party fence, or party fence wall repaired, pulled down, rebuilt or refixed, by delivering a copy of such notice to such Surveyor and to such owner; and every such owner, if he is known and can be met with, or in case such owner be under disability as aforesaid, then such person or persons as aforesaid to whom such notice shall be given, and such Surveyor, shall meet at the time and place appointed in such notice, and shall view such fence, party fence, or party fence wall; and in case the owner of such adjoining ground, or such other persons as aforesaid, having notice as aforesaid, shall refuse or neglect to attend according to such notice, or shall not be known, then the Surveyor, by himself, shall view the said fence, party fence or party fence wall desired to be repaired, pulled down, rebuilt or refixed; and in either case shall certify in writing, under his hand, the state and condition of such fence, party fence or party fence wall, and whether the same or any part thereof ought to be repaired or pulled down, or rebuilt or refixed; and in case the Surveyor shall certify in writing, under his hand, that the fence, party fence or party fence wall described in such notice, or part thereof, is decayed or ruinous, and that the same ought to be repaired or pulled down, rebuilt or refixed, then within *Three* Days next after such certificate made by such Surveyor as aforesaid, a notice thereof shall be delivered to the owner or occupier of such adjoining ground, or left at his or their last or usual place of abode; and such certificate shall be immediately filed with the Clerk of the Peace; and then and in every such case, and not otherwise, it shall be lawful for the owner or occupier desiring to have such fence, party fence or party fence wall repaired or pulled down, rebuilt or refixed as aforesaid, to cause such fence, party fence or party fence wall, or any part thereof to be repaired or pulled down, or rebuilt or refixed; and that the person authorized by such certificate, his heirs, executors and administrators, servants or workmen, and also his builders and their workmen, shall have and exercise all the like powers within the like period, and sanctioned by the same penalties, and in all respects in the same manner as hereinafter directed concerning intermixed properties after verdict or judgment given: Provided always, That the expenses of such repair, pulling down, rebuilding or refixing (including Surveyor's fees) shall not be recoverable, except as hereinafter directed, for the reimbursement of the expenses of party walls.

Either Party may give One Month's notice to District Surveyor and to other Owner, or to Occupier.

Owner or Occupier, and District Surveyor, to meet at time named in Notice.

If Owner or Occupier shall neglect, then District Surveyor alone to view, and in either case to certify.

Copy of Certificate to be delivered to Owner or Occupier, and filed;

and then Wall or Fence may be pulled down or repaired,

Intermixed Property, Form of condemning.

98. If Party Walls or Party Arches cannot be built on proper foundations by reason of being over Public Ways or intermixed, or if Owners refuse or cannot consent to rebuild intermixed Walls, then Owner desirous to rebuild shall give Fourteen Days' notice of intention to apply to the Official Referees, to obtain Award, and to ascertain Site for new Wall or Arch; if necessary to rebuild, and the Site, and the exchange of Ground if any, and the Compensation to either party as to Ground, or as to Injury; and proportion of Expense; to award Costs if reasonable. Award to be conclusive;

And be it Enacted, That when a party wall or party arch cannot be built upon proper foundations between houses and buildings that are over public ways, or that have rooms or floors, the property of different persons, lying intermixed, without pulling down such houses or buildings and laying parts of each to the others, and that the owner or owners thereof or some or one of them will not (or cannot, by reason of some legal disability or otherwise,) join in building a proper party wall or party arch, or in pulling down such houses and laying parts of each to the other, or in case differences shall arise amongst them so that the rebuilding the same, and of the party wall or party arch thereof, be thereby prevented and delayed to the injury or inconvenience of such owner or owners as are desirous of rebuilding; then such owner or owners as shall be desirous of rebuilding such house or other building shall give notice in writing to the owner of such adjoining house or other building, or of the other parts of such intermixed house or building, that the person so intending to rebuild will apply to the Official Referees, in order to obtain award touching the rebuilding such house or houses or other buildings, or such party wall or party arch to be described in such notice, and for ascertaining the site of a party wall or the situation of any party arch to be built according to the directions and restrictions in this Act contained; and in every case it shall and may be lawful for the said Official Referees, and they shall inquire and determine whether the premises in any of the cases aforesaid ought to be rebuilt or not, and if the same ought to be rebuilt, shall determine the site of a party wall, and also what party arches may be necessary over or under any rooms of such house or houses or other buildings so intended to be rebuilt, or shall ascertain the quantity of the soil or ground, or other parts of the premises (if any) necessary to be laid to or taken from the house of the person or persons desirous to rebuild, permitting such person or persons to erect a party wall or party arch; and shall ascertain what (if any) compensation should be made and paid by either or any of the said owners in difference to the other or others of them in lieu of the lessening either of the said buildings by such party wall or party arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby, to any of the said parties; and shall also ascertain what proportion of the expense of building such party wall or party arch shall, when the same are so built, be repaid by either or any of the parties in difference to the person so rebuilding as aforesaid; and the said Official Referees shall and may (if they see fit) award to either of the parties such costs as they shall deem reasonable; which award, in writing, shall be binding and conclusive against all and every person and persons, bodies politic and corporate, including the Queen's Majesty, Her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises, or any part thereof, either in possession, reversion, remainder or expectancy,

and

and against all other persons whomsoever; and a copy of such award, under the hands of the said referees shall be delivered to any party requiring it, paying therefor; and such copy of such award shall and may be taken and read as evidence in all courts of law and equity whatever; and after the expiration of *Fourteen* Days from and after the obtaining such award, and payment or tender, in manner hereinafter directed, of the sum or sums of money (if any) thereby assessed or awarded, or where no such sum of money shall be so assessed or awarded, after the expiration of *Fourteen* Days from and after the obtaining such award, the person who shall have applied for and obtained such award, his heirs, executors or administrators, servants or workmen, shall and may pull down his own house or other building and rebuild the same in the manner so ascertained by such award (except as hereinafter provided), and to that end shall and may, in the presence of a constable or headborough, or other officer of the peace, enter upon the site of the ground so ascertained for a party wall or party arch, and into the building (if any be) adjoining to the building or party wall or party arch intended to be rebuilt, at any time between the hours of *Six* in the morning and *Seven* in the afternoon (Sundays excepted); and if the outer door of such house or building be shut, and the person therein refuse to open the same, being thereunto required, or if such house or other building be empty and unoccupied, shall and may break open such outer door and remove to some other part of the same premises, or in case there be no room on the premises sufficient for that purpose, may remove to any other place any goods, furniture or other thing obstructing the building of such intended party wall or party arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party wall or party arch; and from and after such entry as aforesaid, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party wall or party arch, and his servants and all others employed by him, to enter into and upon the premises and abide therein the usual times of working for the shoring up of the said house or other building so broke into and entered upon, and for taking down and removing any party wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, and to build such intended party wall or party arch; and if any such owner or occupier or other person shall in any manner hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, every such person so offending shall for every such offence forfeit and pay not exceeding the sum of *Ten Pounds*, to be levied, recovered and applied as the several penalties of *Ten Pounds* hereinafter mentioned are directed to be levied, recovered and applied: Provided, That nothing herein contained shall render it lawful for the owner desirous of rebuilding, to commence such pulling

and same may be Evidence.

Fourteen Days after Award

Owner of intermixed House may pull it down after tender of Compensation, if any, awarded;

and may enter;

in the daytime;

and may break open door and remove Goods;

and Builders and others may continue to work at all usual working hours;

and persons hindering Workmen to forfeit 10*l.*;

but Building is not to com-

Intermixed Property, &c.

mence till Six Months after first Notice.

pulling down and rebuilding, or to enter into or upon the other house or adjoining building for that purpose, without the consent of the owner thereof, until the expiration of Six calendar Months after the date of the first notice, or before the expiration of Fourteen Days from the dates of such award.

Buildings to be raised and underpinned.

99. Buildings may be raised when the Walls are in conformity to this Act,

and One Story when in conformity to the 14th G. 3.

And be it Enacted, That it shall be lawful to raise any house or building, provided the party and external walls and chimneys thereof when so raised shall be of the materials, and of the several heights and thicknesses hereinbefore described for party and external walls and chimneys of the Rate such house or building shall be of when so raised; nevertheless it shall be lawful to raise for a height, not exceeding *Ten* Feet, any house or building already built in accordance with the said Act of the fourteenth year of the reign of his late Majesty King GEORGE the Third, provided the party and all other walls of such house or building shall be, in the opinion of the Surveyor, of sufficient strength to allow of such raising.

100. The Owner, who raises any House to carry up at his own expense the Walls and Chimney Stacks; but if adjoining Owner uses any portion of the raised Wall, he is to pay for such portion, but to have the use of the Flues without being liable for any Cost.

And be it Enacted, That if any house or building shall be raised, the owner of such house or building shall build up, at his own expense, the party walls of any adjoining house or building, and all flues and chimney stacks belonging thereto; but if the owner of any such adjoining house or building shall at any time make use of any portion of the part raised of such party wall, he shall repay to the owner who built the same, the cost of the portion he shall so use, together with such parts of the chimney stacks as belong thereto: Provided nevertheless, That the owner of any such adjoining house or building shall have the full use of all the flues raised which he had before, without being liable for any portion of the cost of raising such party wall, flues and chimney stacks.

101. If Ground be excavated against a Wall, the same to be underpinned at cost of Owner so excavating.

And be it Enacted, That if the owner or occupier of any ground, house or building shall excavate or dig out the ground adjoining to or against any wall, whether of a house or building or otherwise, or against any part thereof, deeper than the foundation of such wall, then the owner or occupier who shall excavate such ground shall, at his own costs, shore up and underpin such wall or such part thereof, for its full thickness and to the full depth of such excavation, with good sound stock bricks and tiles, or slates bedded in cement, such underpinning to be done in a workmanlike and substantial manner, and to the satisfaction of the Surveyor.

Buildings when raised, underpinned and rebuilt.

102. Owners intending to

And be it Enacted, That the owner or occupier of any house or building, intending to pull down the same in part or altogether, shall give *One Month*'s notice in writing of such his intention to the owner or occupier of any other house or building, separated

Buildings when raised, underpinned and rebuilt.

separated from his own by a party wall (if such party wall shall not be ruinous and defective); and in such case such owner or occupier intending to pull down in part or altogether shall, at his own costs, cause such adjoining house or building to be properly and effectually shored up and protected inside and outside as shall be found necessary, and shall make good every injury and damage which shall be done to such adjoining house or building by such pulling down in part or altogether, and that the amount of such injury and damage shall be claimed and recovered in all respects as herein directed concerning the reimbursement of the expenses of building party walls.

pull down to give One Month's Notice, and to shore up his Neighbour's House.

Ruinous Houses and Buildings.

103. When any Building is ruinous to be surveyed by District Surveyor, and by the Official Referees; and on Certificate, the Mayor or Overseers to put up a Hoard.

And be it Enacted, That if any house, building or wall, or any part thereof, shall be in a ruinous condition, so as to endanger the lives and limbs of the inhabitants thereof, or the passengers, it shall be the duty of the Surveyor and of the Overseers for the time being of the parish or place in which the same shall be, and he and they shall and are hereby required to cause a survey to be made thereof forthwith by such Surveyor and the aforesaid Official Referees; and if upon such survey it shall be certified by any such Surveyor and the Official Referees, that the said house, building or wall is in a ruinous condition and dangerous, it shall be lawful for the Court of Mayor and Aldermen in respect of any such house, building or wall within the city of London and the liberties thereof, or for the Overseers of the poor for the time being of the parish or place in which such house, building or wall shall be situated, not being in the city of London or the liberties thereof; and the said Court and every such Overseer of the Poor is and are hereby required, on notice of any such certificate being made, and a copy thereof being laid before them or him respectively, to cause with all convenient speed a proper and sufficient hoard to be put up for the safety of all passengers, and to cause notice in writing to be given to the owner or occupier thereof, to repair or pull down such house, building or wall, or any part thereof, as the case may require, within *Fourteen* Days then next ensuing; and if such owner or occupier of any such house, building or wall shall not begin to repair or pull down the same or such part thereof within the said *Fourteen* Days after such notice so given or affixed as aforesaid, and complete such repairs or pulling down as soon as the nature of the case will admit, then on oath being made before the said Mayor or a Justice of the Peace for the said city, county or liberty wherein the said ruinous house or building shall be situate, of such notice having been so given, which oath every of them the said Mayor and Justices is hereby empowered and required to administer, the said Court of Mayor and Aldermen, by and out of the cash in the Chamber of London, as regards property within the City of London, and the deputies thereof, and also every such Overseer of the Poor, as regards all other places, by and out of the money in his hands, are hereby severally authorized and required, with

Give Notice to repair or pull down in Fourteen Days.

After Fourteen Days, on oath of Certificate being made, the Mayor or Overseers may order the work to be done.

To be paid for out of City Funds or Poor's Rate.

Ruinous Houses and Buildings.

all convenient speed, to order and cause such house, building or wall, or such part thereof so certified to be in a ruinous condition and dangerous, as the said Court or the said Overseers of the Poor find necessary for the safety of the passengers, to be repaired, or pulled down or secured, in such manner as shall from time to time be requisite; and to sell and dispose of such of the materials as the said Court of Mayor and Aldermen, or the said Overseers of the Poor, shall judge necessary, and out of the monies arising from the sale thereof to reimburse, repay and satisfy to themselves, to the Surveyors and Official Referees, and to every other person by them respectively employed for the purposes aforesaid, all the charges of the survey and of putting up every such hoard, and of repairing, pulling down and securing as aforesaid, and of selling the said materials as aforesaid, or so much thereof as the monies arising by such sale will extend to pay, and shall account for and pay the surplus of the monies arising by such sale (if any) to the owner of every such house, building or wall, upon demand thereof made by such owner; and if no such demand made, then such overplus shall, as regards places within the city of London and the liberties thereof, be paid to the Chamberlain of the City; and as regards all other places, the same shall be added to the monies raised and collected by virtue of the rates made for the relief of the poor of the said parish, and accounted for as such: Provided nevertheless, That any such owner, his executors or administrators, shall and may, at any time or times within the term of *Six* Years then afterwards, be entitled to have and receive such overplus; and every Overseer, as regards places not within the said city or liberties thereof, is hereby required to pay the same accordingly out of any monies raised or to be raised by any rate or rates for the relief of the poor; and, if the monies arising from such sale shall be insufficient to repay all such fees and charges, then such deficiency shall from time to time be paid by the owner of every such house or building, if known; and if such owner, on demand thereof, neglect or refuse to pay the same, then such deficiency may be levied by warrant under the hand and seal of the Mayor of the said city of London for the time being, if such ruinous building in question shall be within the city of London or the liberties thereof, or under the hands and seals of Two or more Justices of the Peace, by distress and sale of the goods and chattels of such owner, if any such can be found; and if no such owner can be met with, or being met with shall not on demand pay the said deficiency, and no sufficient distress of his, her or their goods and chattels can be found, then the person who shall at any time thereafter occupy any such house or building, or the ground where the same stood, is hereby required and authorized to pay and deduct the same out of the rent thereof, and if he neglect or refuse to pay such deficiency of charges, then the same shall, by warrant under the hand and seal of the said Mayor

Old Materials to be sold to pay Costs.

Surplus, if any, to be paid to Owner on demand.

Other Overseers empowered to refund within Six Years.

If a deficiency, to be paid by Owner,

or may be levied by Warrant;

by Distress and Sale of Goods;

or Occupier to pay, and deduct from Rent;

Ruinous Houses and Buildings.

Mayor of the said city, or under the hands and seals of Two or more such Justices of the Peace as aforesaid, be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; and all money received or recovered on the account aforesaid, for or in respect of any such house, building or wall or part thereof, within the city of London or the liberties thereof, shall be paid to the Chamberlain of the said city, and be by him from time to time placed to the credit of the cash of the said city of London, and all money on account aforesaid, from time to time received or recovered for or in respect of any such house, building or wall or part thereof, in any part of the limits aforesaid, other than the said city of London and the liberties thereof, shall be paid to the Overseers of the Poor for the time being of the parish where the same shall be situated, and shall be placed to the account of the said parish, in aid of such or a like rate or fund out of which the expenses and charges so received or recovered were originally disbursed.

or by Distress on Goods, &c. of Occupier.

Money recovered to be paid to the Chamberlain, or to the Overseers.

Ruinous Chimneys and Projections, and Upper Parts of Party Walls.

104. And be it Enacted, That if the chimney-shaft, chimney-pot or other thing thereon, or eaves, or parapet, or coping, or slates or tiles on roof, or projection in front of walls of any house or building shall be deemed by the Surveyor to be in imminent danger of falling, it shall be the duty of such Surveyor, and he is hereby required to give notice thereof under his hand to the occupier of such house or building, either personally or by leaving the same at or affixed to some conspicuous part of the said house or building, requiring such occupier, or the owner, if known, and there shall be no occupier, forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or some other person interested in such house or building shall not begin to take down, repair, rebuild or secure the same within the space of Thirty-six Hours after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, such Surveyor shall give information thereof to any Justice of the Peace, who shall proceed thereupon to cause such chimney-shaft, chimney-pot, or other thing thereon, or parapet, or coping, or slates or tiles on roof, or projection in front of wall of such house or building as shall be considered by such Surveyor in imminent danger, to be forthwith taken down, repaired, rebuilt or otherwise secured; and in case the occupier, or some other person interested in such house or building, shall not have taken down, repaired, rebuilt or otherwise secured the same within the time limited as aforesaid, the occupier of such house or building, or the owner, if there shall be no occupier, shall forfeit and pay the sum of *Five* Pounds for every day during which the same

If Chimneys, &c. are ruinous, &c., District Surveyor to give Notice;

after Thirty-six Hours to apply to a Justice,

who shall cause such Chimneys, &c. to be secured.

Occupier to forfeit 5 *l.* every day the danger continues.

Ruinous Chimneys, &c.

shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier or owner of such house or building shall, over and above the aforesaid penalty, pay the Surveyor's fees and all other costs, charges and expenses attendant upon any such taking down, repairing, rebuilding or otherwise securing such matters and things as aforesaid, and all such Surveyor's fees and other costs, charges and expenses may be recovered and levied in the same manner as such penalty: Provided always, That in all cases in which the occupiers of such house or building shall not by virtue of the lease or other instrument under which he occupies the same, be bound to repair, reinstate or secure such matters or things as aforesaid, such occupier shall have the like right to retain out of the rent payable in respect of the same premises, all such penalties, costs, charges and expenses attendant upon or arising out of the taking down, repairing, rebuilding or otherwise securing the same as hereinafter given, and no costs or expenses shall be recoverable until the same shall be certified by the said Official Referees to be correct, and their decision shall be final.

Forfeit and Costs and Surveyor's Fees to be recovered like other Penalties.

105. If an adjoining House be injured by the fall of Chimneys, &c.

And be it Enacted, That if any injury or damage shall at any time be caused to any house or building, or to the internal decorations and furniture therein, by the falling down of any chimney-shaft, chimney-pot, parapet, coping or other thing, from any other house or building, such injury or damage shall be made good at the cost of the owner or occupier of the house or building from which the same shall fall, in like manner as herein directed concerning the reimbursement of the expenses of party walls, provided only, the same shall not be any such part of a party wall as shall belong to and be used by the owners or occupiers of both houses or buildings; and such costs shall be recoverable in the manner hereinafter directed for the recovering of all other costs and expenses.

injury and damage to be compensated,

except a Party Wall,

and Costs recovered.

106. Owners of Party Walls are to keep their own portion in repair; if the one neglects, the other, with consent of District Surveyor, may, after Seven Days' notice, repair above his Roof, and recover Costs.

And be it Enacted, That every of the owners of every party wall shall keep in substantial repair such portion of such party wall, and of the chimney-stacks, chimney-pots, flues and other things in or attached thereto as shall belong to him; and in case any of the owners of a party wall shall neglect to keep all such portions as aforesaid in substantial repair, which may be above the roofs of the adjoining house or building, so as to endanger the same, it shall be lawful for the owner or occupier of such adjoining house or building, by and with the consent of the Surveyor, to give *Seven* Days' notice to repair such portions as shall require repair to the owner or occupier of the other house or building; and if after the expiration of such notice, the person to whom such notice shall be given shall have neglected or refused to repair the same, then the owner of the adjoining house or building

building so endangered may cause such ruinous parts above the roofs of his house or building to be forthwith pulled down, and rebuilt or repaired, and may recover the expenses thereof, after the correctness of such costs shall have been certified by the said Official Referees in manner aforesaid, in manner hereinbefore directed for recovering the expenses of building party walls.

Reimbursement of Expenses for Rebuilding Party Walls.

107. Persons who have built Party Walls or Party Arches, in all cases entitled to recover expense from adjoining Owners;

And be it Enacted, That whenever any party wall hereafter to be built shall have been built between any house or building, and any other house or building, or whenever any party wall hereafter to be built shall have been built between any house or building, and any vacant ground; or whenever a ruinous and defective party wall shall have been condemned or pulled down and rebuilt, or whenever One or more timber partitions between any house or building and any other house or building shall have been pulled down, and a party wall built in lieu thereof, or whenever any party wall or party arch between intermixed properties shall have been condemned and pulled down, and a new party wall or party arch built in lieu thereof, or whenever any party fence wall of sufficient height and thickness shall be used as a party wall, or whenever any party wall built on the site of a party fence or party fence wall shall be used otherwise than as a party fence wall by the party who shall not have built the same; then and in every and each of these cases (and in every other case of reimbursement) the person at whose expense such party wall or party arch shall have been built or rebuilt shall be entitled to be paid and to recover from the owner of any adjoining house, building or ground, a sum of money equal to *One moiety* of the value of so much of such party wall or party arch as shall be built in the manner and of the materials, and of the thicknesses herein required for party walls of the Rate of such adjoining house or building, or of so much of such party wall or party arch as such adjoining owner or owners shall at any time make use of, deductions being made, where proper, for the value of old materials; and also, the value of such chimney jambs, chimney breasts and flues, which shall have been set up in any party wall, by the instructions of the owner of any vacant ground adjoining to the same, if not already paid for; and also a proportional part of all expenses which shall be necessary for pulling down the old timber partition, or the old party wall or party arch (when the same shall have been condemned), in lieu of which, such party wall or party arch shall be built; and the whole of the reasonable expenses, including Surveyor's and Referee's fees, where hereby authorized for or in respect of the shoring up such adjoining building to any timber partition which may be pulled down, or to any party wall or party arch which may have been condemned, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition;

Reimbursement of Expenses,&c.

and till paid, right of Soil vested in the Builder.

partition; and also all such costs (if any) as may have been awarded by the Official Referees as aforesaid, in any of the cases hereby provided for; and in the meantime and until such moiety or other proportional part of the expense of building such party wall or party arch, or such other expenses as aforesaid, shall be so paid, the sole property of all such party wall, and of the ground whereon it stands, and of all such party arch, shall be vested entirely in the person or persons at whose expense the same shall have been built: Provided always, That nothing herein contained shall be construed to impair or diminish the obligation hereinbefore imposed upon the owner of any building by whose neglect or default any party wall adjoining to such building, being sound, shall have been damaged and injured in the rebuilding thereof, so as to be condemned as aforesaid, to make good all the expenses attendant on the survey thereof, and on the pulling down and rebuilding of such party wall, and the reinstating all the internal finishings and decorations of the adjoining building which shall become damaged thereby, nor the right of the owner or occupier of such adjoining building, to recover all such expenses from the owner or occupier culpable of such neglect or default, his heirs, executors, administrators and assigns.

108. When a Party Wall is built next vacant ground, Party giving instruction for Flues, &c. has taken possession: and Person building such Wall may recover half of Expense within Twenty-one Days after Account delivered. Account to be delivered Ten Days after completion.

And be it Enacted, That whenever a party wall shall have been built between any house or building and any vacant ground, the owner or owners of such vacant ground who shall have consented to the same, or shall have given instructions as hereinbefore directed for the setting up of the chimney jambs, chimney breasts and flues, shall be deemed to have made use of such party wall; and the person or persons at whose expense such party wall, chimney jambs, chimney breasts and flues shall have been built, shall be entitled to be paid and to recover from such owner or owners One moiety of such expense within *Twenty-one* Days after demand, or after having left a true account in writing of the expense of building the same as herein directed for condemned party walls and party arches; and such account shall be delivered to such owner or owners within *Ten* Days after the completion of the building of such party wall, or so soon after as conveniently may be.

109. Persons who have pulled down a Timber Partition and built a Party Wall,

entitled to recover Expense, and all other reasonable Expenses from adjoining Owner,

And be it Enacted, That whenever one or more timber partitions between one house or building and any other house or building shall have been pulled down and a party wall or party walls built in lieu thereof; the person at whose expense such party wall shall have been built shall be entitled to be paid and to recover from the owner of the house or building a sum of money equal to One moiety of the value of so much of such party wall (deducting for old materials) as shall be built in the manner and of the materials and of the thicknesses hereinbefore required for party walls,

Reimbursement of Expenses,&c.

walls, at the rate of such adjoining house or building, and for the height and breadth of so much thereof as such adjoining owner shall make use of; and also for a proportional part of all other expenses which shall be necessary for pulling down the old timber partition or partitions; and the whole of all the reasonable expenses for shoring up such adjoining building, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition; and the person or persons at whose expense such party wall or party walls shall have been built, and such timber partition or timber partitions shall have been pulled down, shall be entitled to be paid and to recover from the owner or owners of the adjoining house or building One moiety, or a proportional part of such expense, deducting therefrom a reasonable allowance for the old materials pulled down, as the case may be, and all the other reasonable charges as aforesaid (including Surveyor's, Official Referees' and other fees), within *Twenty-one* Days after demand, or after having left a true account in writing of the expense of building and pulling down the same, and of all the other reasonable expenses as aforesaid as hereinafter directed for condemned party walls and party arches; and such account shall be delivered to such owner or owners within *Ten* Days after the completion of the building of such party wall, or so soon after as conveniently may be.

within Twenty-one Days after delivering Account.

Account to be delivered Ten Days after completion.

110.

Persons who have rebuilt ruinous Party Walls and Party Arches entitled to recover from adjoining Owner Expense and all other reasonable Expenses,

And be it Enacted, That whenever any ruinous and defective party wall shall have been condemned, or whenever any party wall or party arch between intermixed properties shall have been condemned, then the person or persons at whose expense such party wall or party arch shall have been rebuilt shall be entitled to be paid and to recover from the owner of the adjoining house or building a sum of money equal to One moiety of the value of so much of such party wall or party arch as shall be built in the manner and of the materials and of the thicknesses hereinbefore required for party walls of the rate of such adjoining house or building, and for the height and breadth of so much thereof as such adjoining owner or owners shall make use of, and also for a proportional part of all other expenses which shall be necessary for pulling down the old party wall or party arch, and the whole of all the reasonable expenses for shoring up such adjoining building, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition, and also for all such costs (if any) as may have been awarded by the Official Referees as aforesaid; and within *Ten* Days after the completion of the building of such party wall or party arch, or so soon after as conveniently may be, the person or persons at whose expense the same shall have been built shall leave at such adjoining house or building a true account in writing of the number of rods and parts of rods of brickwork, and of all digging, concrete, stone-

and Expense of Condemnation as may be awarded.

Account to be delivered Ten Days after completion,

Reimbursement of Expenses, &c.

work and other materials or labour employed in building each party wall or party arch for which the owner or owners of such adjoining house or building or ground shall be liable to pay, and of the deduction which such owner or owners shall be entitled to make therefrom on account of the old materials of the wall or arch or other things pulled down, and also a true account of such other expenses and costs as aforesaid; whereupon the occupier of such adjoining house or building or ground, not being a yearly tenant or tenant at will, shall pay to the person or persons at whose expense the said party wall or party arch shall have been built, One moiety or such proportional part as aforesaid for the pulling down and rebuilding, and all the reasonable expenses for shoring up and supporting such adjoining house or building as aforesaid, and for all such other expenses as are hereinbefore directed to be paid by the owner of such adjoining building or ground, and shall deduct the same out of the rent which shall become due from him to such owner under whom he holds the same respectively until he shall be reimbursed the same in proportion as is hereinafter directed; and in case the same be not paid within *Twenty-one* Days next after demand thereof, then the same shall and may be recovered, together with full costs of suit, of and from such owner by action of debt or on the case in any of Her Majesty's Courts of Record at Westminster, and if the plaintiff in any such action shall, *Three* calendar Months at the least before the commencement thereof, give notice in writing to the person against whom such action is intended to be brought of his intention to bring the same, or leave the same at his last or usual place of abode, and shall in such notice specify the sum for which it is to be brought, and also annex to such notice a bill of the true particulars of the expenses and charges with which the defendant is to be charged; then such plaintiff, if he recover the full sum specified in such notice, shall also recover and be entitled to double costs of suit, and shall have and be entitled to the like remedies for recovery thereof as are usually given for costs in other cases of costs at law.

and Occupier to pay the same,

and deduct it from his Rent.

If not paid in Twenty-one Days after demand, may be recovered, with costs of Action.

If Three Months' notice of Action shall have been given,

Double Costs may be recovered.

111. The Expense of pulling down and building Party Walls, &c.

And be it Enacted, That the expense of building any party wall, or of pulling down and rebuilding any party wall, party arch or timber partition, or of repairing any party wall, and the value of old materials, and all and every other expense for pulling down, building or repairing, which any person shall be entitled under this Act to recover from any other person, shall be estimated and valued at such rates and prices as shall be from time to time fixed by the Official Referee; and no account shall be delivered except the same shall have been approved of by the Referees, whose decision shall be final.

to be valued by Official Referees;

And

Reimbursement of Expenses, &c.

112. Costs and Expenses of rebuilding Party Walls

And be it Enacted, That when the costs and all other expenses of pulling down, securing, repairing and rebuilding party walls, party arches, party fence walls, or other parts of houses or buildings according to the provisions of this Act, shall have been ascertained, and paid by the owner or person upon whom the payment thereof shall have fallen; then it shall be lawful for such owner or person to call upon all other persons interested in the premises, such as freeholders, copyholders, ground landlords, lessors, lessees and the like, but not upon yearly tenants or tenants at will, to contribute a due proportion of such costs and expenses according to the covenants of the several leases or agreements between them, calculated according to both time and amount; and if all the parties so interested cannot agree among themselves upon an equitable division and arrangement of such costs and expenses, the same shall be settled and determined by the award of the Official Referees, whose decision shall be final; and the person upon whom the payment of such costs and expenses shall have fallen shall have (against all persons required by the award of such Official Referees to contribute thereto) the like remedies to compel payment of the money as are hereinbefore given for compelling the first payment of such costs and expenses, and of the costs and charges of such Referees.

to be borne in proportion, by all Parties interested in the Premises;

if they cannot agree as to proportions, to be settled by Official Referees; and the Person who has first paid may recover from all.

Nuisances.

113. Two Days' Notice to be given before beginning to build,

And be it Enacted, That *Two* clear Days at least before any house or building shall be begun to be built, and before any addition or alteration shall be made to any house or building, and before any party wall, external wall, chimney-stack or flue shall be begun to be built, pulled down, rebuilt, cut into or altered, and before any opening shall be made in any party wall, and also before any building duly begun in compliance with the provisions of this Act (and the progress thereof shall have been suspended for any period exceeding *Three* calendar Months) shall be again proceeded with, and also whenever the builder or other person employed by any owner or other person in any building, pulling down, alteration or rebuilding, shall be changed during the progress thereof, and before any other matter or thing shall be done, which by this Act is placed under the supervision of the District Surveyor, a notice in writing shall be left at the office of the Surveyor, signed by the master builder or workman, or other person who shall be or be about to be employed, or shall be about to build, pull down, rebuild, cut into, or alter such building, party wall, external wall, chimney-back or flue, or to go on with such building, pulling down, rebuilding, cutting into or alteration, or by the owner of the building, wall, chimney-back or flue, or of the intended building, wall, chimney-back or flue, or by any other person for whom and by whose order such work shall be done; and such notice shall state in general terms the nature of the work intended to be begun or proceeded with, and the place where the same is done or carried on, or is to be done or carried on;

by Master Builder, or by Person who orders the Work.

and also the christian and surnames at length, and the usual places of abode of the owner of the property, or other person, by whose order such work shall be done; and of the master builder or workman or other person who shall be employed or shall be intended to be employed therein; and every master builder, workman or other person who shall neglect to give such notice, or who shall begin to build or do any of the things aforesaid, before such notice as aforesaid has been given; and also any person who shall refuse to admit the Surveyor or any other Surveyor or Architect authorized under this Act from time to time and at all reasonable hours to inspect any building in course of construction, demolition, alteration or reconstruction, shall, for every default therein, forfeit and pay to such Surveyor Treble the fees which such Surveyor or Architect would have been entitled to receive for his trouble in inspecting the same, and shall also for every such default forfeit a sum not exceeding Twenty Pounds, to be recovered by any action, in any of Her Majesty's Courts of Record at Westminster, by any person who shall sue for the same; and in case any such house, building, chimney or wall shall have been begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or shall be proceeded with after any suspension of the progress thereof, before such notice as aforesaid shall have been given; or in case such Surveyor or Architect shall have been refused admittance to inspect the same as aforesaid, the same shall be liable to be abated as a nuisance under the provisions herein contained; and that in case any person having duly begun any house or building requiring compliance with the provisions of this Act shall suspend the progress and completion of such building for any period exceeding *Three* Months, and shall again go on with the same; or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall be given to the Surveyor, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding Ten Pounds, to be recovered as hereinafter mentioned.

In case of neglect, to give Notice; or refusal to admit District Surveyor,

Master Builder to be fined 20*l.*,

if begun without notice,

or if Surveyor be refused admittance.

In case of suspending Works Three Months;

or in case of change of Builder,

a fresh Notice to be given, on Penalty of 10*l.*

114. For preventing neglect or evasion of this Act. Any Person may prosecute.

And be it Enacted, That it shall be lawful for any Surveyor appointed or confirmed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or alteration of any house or building, against any owner, occupier, builder, workman or other person, for any default made in complying with the provisions of this Act, at any time within *Three* Months after such default shall have been made, provided that the person intending to commence such proceedings, if not One of the said

said Surveyors, shall give notice of his intention at the office of the Surveyor of the district.

115. All Buildings to be according to this Act; and every Building contrary to this Act is declared to be a public nuisance.

And be it Enacted, That every drain, timber building, chimney and flue, party wall, party fence wall, external wall and projection, and every other part of every house or building of every Rate which shall be hereafter built or altered within the limits of this Act, shall be built or altered in the manner and of the materials and in every other respect according to and in conformity with the several rules, regulations and directions which are in this Act particularly specified; and if any person or persons shall build or begin to build, or cause the building or beginning to build, or shall alter or cause to be altered, or use or cause to be used any part of any ground, house or building, projection, drain or other thing contrary thereunto, and as the same shall appear by the certificate of the Official Referees aforesaid, then the said house or building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered or so used, shall be deemed a common nuisance, and the builder and the owner and the occupier thereof, or any One of them, shall be summoned by the Surveyor before any Two Justices of the Peace, and such one of them as such Justices shall require, shall enter into a recognizance in such sum as the said Justices shall appoint for abating and demolishing the same, within such convenient time as the said Justices shall respectively appoint, or otherwise to amend the same according to such rules and regulations and directions as are herein contained, as well as for the payment of the costs, charges and expenses attending the laying the information and obtaining the conviction; and in default of entering into such recognizance, the person or persons so making default shall be committed to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall have abated or demolished or otherwise amended the same, or until such irregular house or building shall be abated or demolished by order of such Justices respectively (which order the said Justices are hereby empowered to make), and until the costs, charges and expenses aforesaid have been paid.

If convicted on the Oath of Two or more credible Witnesses,

Builder, Owner or Occupier to enter into Recognizances to pull down and amend.

In fault of Recognizance, Builder, Owner or Occupier to be imprisoned until abated, or until abated by the Justices, and all expenses paid. Conviction may be had after Three Months, if Notice given; after Twelve Months, if Notice not given.

116. Justices are empowered to pull down Buildings declared Nuisances,

And be it Enacted, That it shall be lawful for any Two or more Justices of the Peace to order every such house or building, or projection or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered as is by this Act declared to be a common nuisance, to be abated or taken down, and to order the person authorized by them to abate or take down the same to sell and dispose of the materials thereof, and out of the monies arising by the sale thereof to pay to themselves and all persons by them employed for the purpose aforesaid, the reasonable charges

and to sell the Materials to pay expenses,

for abating or taking down such nuisance, and also the costs and expenses attending the laying of the information and of obtaining the conviction thereupon, and to pay the surplus monies arising by such sale (if any) to the owner or owners of such materials, and if the monies arising by such sale be not sufficient to pay such charges, the deficiency shall be made good by such owner, and may be levied in like manner as hereinbefore directed concerning the expense of taking down ruinous buildings and putting up hoards for the safety of passengers.

and to pay surplus to Owners; and deficiency may be levied for as in ruinous Buildings.

Notices, Nuisances, Penalties, Hoards.

117. Fifty Shillings penalty on Workmen offending.

And be it Enacted, That every workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, who shall wilfully, carelessly or negligently, with or without the direction, privity or consent of the person causing such building or wall to be erected, do any thing in or about such building contrary to the directions of this Act, upon conviction thereof before any Two Justices of the Peace, upon the oath of One or more credible witness or witnesses (which oath the said and every such Justice is hereby empowered and required to administer), or upon his own confession, shall for every such offence forfeit a sum not exceeding *Fifty Shillings*; and if any such forfeiture be not paid upon and immediately after such conviction, then the offenders shall by warrant under the hand and seal of such Justice be committed to the common gaol for any term not exceeding at the discretion of such Justices.

118. Parties taking down and repairing to put up Hoard,

And be it Enacted, That every person who shall intend to build or take down any house or building, or cause the same to be taken down, or who shall alter or repair the outward part of any house or building, or cause the same to be done, shall cause to be put up a proper and sufficient hoard or fence, in all cases in which the footway shall be thereby obstructed or rendered inconvenient, with a convenient platform and handrail, if there shall be room enough for the same, to serve as a footway for passengers outside of such hoard or fence, and shall continue such hoard or fence in such cases as aforesaid, with such platform and handrail as aforesaid, standing in good condition during such time as may be necessary for the public safety or convenience; and shall, in all cases in which the same shall be necessary to prevent accidents, cause the same to be well lighted during the night; and every such person who shall refuse or neglect to set up any such fence, or hoard, or platform, with such handrail as aforesaid, or to continue the same respectively standing and in good condition during the time aforesaid, or who shall not, whilst the said hoard or fence is standing, keep the same well lighted in the night, shall for every such offence, on conviction thereof before any Two Justices

and to continue as long as necessary;

and in case of not putting up Hoard, &c. and Lighting, to pay a Penalty of 5*l.*

Justices of the Peace, forfeit a sum not exceeding Five Pounds: Provided always, That nothing herein contained shall be deemed to interfere with the rights, bye-laws, regulations and control of the Commissioners of Paving for the Metropolis.

District Surveyors, Appointment, Duties, Fees, &c.

119. Lord Mayor and Aldermen to appoint Surveyors in the City

And be it Enacted, That the Lord Mayor and Aldermen of the City of London, shall and may, at any time after this Act shall come into operation, nominate and appoint such and so many discreet persons, properly educated, skilled in the art and practice of building, as they the said Lord Mayor and Aldermen shall think fit to be, during their will and pleasure, the Surveyors, to see all the rules, regulations and directions of this Act well and truly observed in and throughout the said City of London and the liberties thereof, and shall assign to such Surveyors such districts as they shall think fit to be under the charge of such Surveyors respectively as aforesaid, and they shall thereupon be the Surveyors of such districts; and the said Lord Mayor and Aldermen, immediately after this Act shall come into operation, and from time to time thereafter, shall and may appoint, unite, enlarge, diminish or alter the several districts which shall be under the charge of such Surveyors respectively; and Districts.

Justices of the Peace to appoint Surveyors elsewhere,

and the Justices of the Peace for the County of Middlesex, the County of Surrey, the County of Kent, the City and Liberty of Westminster, and the Liberty of Her Majesty's Tower of London, in their General Quarter Sessions respectively, shall and may, at any such time as aforesaid, nominate and appoint such and so many discreet persons, properly educated and skilled in the art and practice of building, as they the said Justices shall think fit to be, during their will and pleasure, the Surveyors, to see all the rules, regulations and directions of this Act well and truly observed in and throughout the said City and Liberty of Westminster, and all the parishes, precincts and places within the limits of this Act, under the jurisdiction of the respective Quarter Sessions by whom such Surveyors shall be so appointed; and the said Justices of the Peace from time to time, in their General Quarter Sessions respectively, shall and may from time to time appoint, unite, enlarge, diminish or alter the several districts which shall be under the charge of such Surveyors or Supervisors respectively; nevertheless, it shall not be lawful for any person to be one of such Surveyors or one of such Deputies as after mentioned until he shall have attained the full age of *Thirty* Years; nor shall it be lawful for any person to hold the office of a Surveyor, or of Deputy Surveyor, under this Act during the time that he shall act as a Justice of the Peace for the county in which such district shall be situated: Provided nevertheless, That no person shall be appointed the Surveyor of a district, nor shall any such district be appointed, enlarged, diminished or altered, except with the consent of Her Majesty's Principal Secretary of State acting for the Home Department.

and Districts.

No Person to be appointed under Thirty Years of age. Nor a Justice of the Peace.

District Surveyors, &c.

120. And be it Enacted, That the Surveyors who at the time of this Act coming into operation shall have been appointed under the said Act of the fourteenth year of the reign of King GEORGE the Third, shall continue to be the Surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, until removed, and in all respects as if they had been appointed under this Act, and the several provisions in this Act applicable to District Surveyors had been made to apply to them; but nothing hereinbefore contained shall prevent the removal of such Surveyors, or the uniting, altering, or enlarging or diminishing such districts formed before this Act shall come into operation.

121. The Mayor and Aldermen and the Justices to administer to each Surveyor, on his appointment,

And be it Enacted, That it shall be lawful for the said Lord Mayor and Aldermen, in their Court of Aldermen, and for the said Justices of the Peace in their respective General Quarter Sessions, and they are hereby required to administer to each and every one of the said Surveyors, upon his appointment, an oath for the true and impartial execution of his office in that behalf, which oath shall be in the form or to the effect following; (that is to say)

an Oath for the true and impartial execution of his office.

"I, A. B., being one of the Surveyors appointed in pursuance of an Act of Parliament passed in the
do swear, that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability, endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice to any person whomsoever
"So help me GOD."

122. Surveyor's Office to be in District, and attendance there from Ten to Four o'clock. Address to be left with Clerk of the Peace, Churchwardens and Overseers. Notice Book to be kept, and Notices entered.

And be it Enacted, That every Surveyor shall have an office, at his own expense, in some central part of the district to which he shall be appointed, approved of by the Lord Mayor and Aldermen, or by any Two of the Justices of the Peace, as the case may be, within whose jurisdiction he shall act; and such Surveyor or some person on his behalf, shall be in constant attendance at such office every day (Sundays, Christmas-day and Good Friday excepted), from *Ten* of the clock in the morning till *Four* of the clock in the afternoon; and such Surveyor shall leave his name and place of abode, and the place where such office shall be, with the Clerk of the Peace, and with the Overseers of the poor, for every parish and place within his district; and such Surveyor shall cause a book for the entering of such notices, informations and complaints, to be at all times kept at such office, and he shall and is hereby required to enter in such book every notice, information or complaint which shall be delivered or made to him.

And

District Surveyors, &c.

123. If Surveyor is ill or unable to attend, Justices of Peace to appoint another pro tem. who shall attend, and take fees.

And be it Enacted, That in case any Surveyor shall be prevented by illness, or any other unavoidable circumstance, from attending to the duties of his office by illness, such Surveyor shall forthwith, by and with the consent and approval of One of the Justices of the Peace having jurisdiction in his district, appoint some other Surveyor as his deputy, to perform all such duties, for so long a time as such prevention shall continue; and such Deputy Surveyor shall thereupon, during such time as aforesaid, perform all the duties of such Surveyor, and in all respects as if he were the Surveyor appointed or confirmed under this Act, and shall be entitled to the like fees; and in case of the death of any Surveyor, the Lord Mayor and Aldermen, or the Justices of the Peace, shall within One Month appoint a successor as herein directed.

124. If Two Days' Notice has been given, or if Notice has not been given, the Surveyor is occasionally to inspect, and cause the Act to be observed; also, to inspect Drains and Projections, &c. without Notice.

And be it Enacted, That when Two clear Days at least before any house or building shall be begun to be built, or before any addition or alteration shall be made to any house or building, or before any party wall, external wall, chimney back or flue, shall be begun to be built, pulled down or rebuilt, cut into or altered, or before any opening shall be made in any party wall, or before any other matter or thing shall be done which by this Act shall have been placed under the supervision of the Surveyor, notice thereof shall have been left at the office of any Surveyor as hereinbefore directed; or when, from ignorance or neglect, or from any other circumstance, such notice shall not have been so left, yet the progress of any such work shall have been observed by or made known to the Surveyor, then and in both cases, the Surveyor in whose district such work shall be intended to be done or shall have been commenced shall proceed from time to time to inspect the same, and to cause all the rules, regulations and directions of this Act to be strictly observed, according to the oath taken by him to that effect; and it shall also be the duty of such Surveyor, at all times when it shall be needful, to inspect private drains, ruinous buildings and projections in imminent danger, and to take all such measures thereupon, and to attend to and to perform every thing required of him by this Act, whether with or without notice.

125. If any Work shall be done irregularly, Surveyor to give Forty-eight Hours' Notice to amend. Surveyor, after Notice expires, to

And be it Enacted, That in case the owner, the master builder or workman, or any other person who shall be employed, shall build, pull down, rebuild, cut into or alter any part of any house or building, or party wall or external wall, or chimney back or flue, or any other thing contrary to the rules and directions of this Act, or shall not conform to all such rules and directions, the Surveyor shall forthwith give *Forty-eight* Hours' notice to the owner or the master builder, to amend any such irregularity which he may apprehend to have been committed; and after the expiration of such notice, such Surveyor shall proceed to inspect the work; and if he shall

District Surveyors, &c.

survey; and if refused admittance, may enter with a Peace Officer.

If work is covered up, Surveyor may order it to be cut into.

shall be refused admittance from time to time, at any reasonable hour, to make such inspection, he is hereby empowered, by and with the aid of a Peace Officer, to enter upon the ground, house, building and premises where the same may be, for that purpose; and if it shall prove that the work is so far advanced that such Surveyor cannot ascertain whether the irregularity has been committed or not, or exists or not, he is hereby empowered to order any work to be cut into, laid open or pulled down, which shall in his opinion prevent his ascertaining whether any such irregularity exists or not; and in case

If irregularity be not amended,

or if Owner refuse to allow it to be cut into,

the owner or master builder to whom any such notice shall have been given, shall refuse or omit or neglect to amend any irregular work after *Forty-eight* Hours, or any owner or master builder, in case he shall refuse when ordered by the Surveyor, to cut into, lay open or pull down any work which shall in his opinion prevent his

Surveyor to inform the Justices.

ascertaining whether any such irregular work exists or not, such Surveyor shall, as soon as conveniently may be, give information thereof to Two or more Justices of the Peace, who shall proceed thereupon to hear the matter, and if any breach of the rules, regulations and directions of this Act shall be found to have been committed, or if there shall appear good reason to surmise and apprehend any such

Justices, in both cases, may order the Work to be amended or pulled down.

breach has been committed and is concealed, then the said Justices shall proceed to cause such house, building, party wall, external wall, chimney back, flue or other thing, or such part thereof as they shall deem necessary, to be amended, removed, pulled down, laid open or demolished, in manner hereinbefore directed.

126.

Surveyors to be paid Fees according to Table of Fees,

And be it Enacted, That every Surveyor shall be entitled to receive, and shall be paid for his time and trouble and expenses, in causing all the rules, regulations and directions of this Act to be observed, the several fees hereinafter directed; and in case no notice

and Treble Fees, if no Notice.

shall have been given as hereinbefore directed, he shall be entitled to receive and shall be paid *Three* times the amount of such fees; and

When payable, amount to be delivered; when paid, receipt to be given.

whenever any fee shall become payable to any Surveyor, he shall deliver an account thereof to the owner or occupier of the house or building, and when such fee shall be paid, he shall give to such owner a receipt, signed with his christian and surname, and stating thereon the amount paid and the work done for which such fee shall have

No Fee to be paid without receipt.

become payable; and no fee shall be paid without such receipt being tendered for the same; but if any owner or occupier who shall become liable to pay any such fee shall refuse to pay the same on tender of

Fees may be recovered as Poor-rate.

such receipt, the same shall be recoverable by application to any Justice of the Peace in whose jurisdiction the house or building shall be, in like manner in which any poor's rates are by law recoverable; and also *Treble* the amount of the same when no notice shall have been given as hereinbefore directed.

And

127. No Fee to be received till the work done is conformable to this Act. Surveyors to return quarterly to the Clerk of Peace account of all Fees, signed by him and sworn to, and such Return to be the Certificate of all Works being properly done.

And be it Enacted, That it shall not be lawful for any Surveyor to receive any fee unless the work upon which the same shall become payable shall have been done in every respect agreeably to the directions of this Act; and every Surveyor shall, within *Fourteen* Days after every quarter day in every year, after the *First day of January One thousand eight hundred and Forty-four*, make a return to the Clerk of the Peace for his district, enumerating therein the number and nature of all the several works executed within the previous quarter under his supervision, and the fees paid to him for the same; and such return shall be signed by such Surveyor; and the correctness thereof shall be sworn to by him before any Two Justices of the Peace; and such return, so sworn to, shall be deemed and taken to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief; but such return shall not be any protection from or hindrance of any future proceeding for irregular works according to the provisions of this Act, though the same may have been done before the making of such return; and such return shall be at all reasonable times open for inspection on the payment of *One Shilling*.

128. If Surveyor shall demand too high a Fee, or be negligent and unfaithful, he shall be fined, under 50 *l.*, or discharged forthwith.

And be it Enacted, That if any Surveyor shall receive any higher fee than he shall be entitled to under this Act, or if at any time he shall wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, or shall become incapable to discharge the same, and if the same shall upon complaint thereof be made to appear to the Mayor and Aldermen of the said City of London, or to the Court of Session having jurisdiction over the district in which he shall act for the time being, such Surveyor shall, by the said Mayor and Aldermen, or by the said Court of Session, as the case may be, be fined such sum of money, not exceeding *Fifty Pounds*, as they shall think fit, or shall be discharged forthwith from his said office, and shall for ever afterwards be incapable of being again appointed a Surveyor for the purposes of this Act.

129.

And be it Enacted, That whenever any house or building shall have been built on old or new foundations, the fee payable by the owner thereof to the Surveyor in whose district the same shall be, according to this Act, shall become due and shall be paid within *Fourteen* Days after the roof thereof shall have been covered in, and all the walls thereof shall have been built to their full heights, and the principal timbers of the partitions and floors shall have been fixed in their places; and such Surveyor shall be paid —

		£.	s.	d.
For every Building of the First Rate	- - -	7	7	–
„ „ Second „	- - -	6	6	–
„ „ Third „	- - -	5	5	–
„ „ Fourth „	- - -	4	4	–
„ „ Fifth „	- - -	2	2	–
„ „ Sixth „	- - -	6	6	–
„ „ Seventh „	- - -	–	10	6

District Surveyors, &c.

And whenever any public building of the Eighth Rate shall have been certified, as hereinbefore directed, to have been built in a satisfactory manner, and according to the regulations of this Act, the Surveyor and the Official Referees who shall sign such certificate shall be paid by the owner thereof the several fees following; (that is to say)

	£.	s.	d.
To the Surveyor in addition to a First Rate fee - -	10	10	–
To each of the Referees who shall have assisted in the supervision, and signed the certificate - -	10	10	–

And whenever the offices of any house or building attached thereto shall be distinctly rated, and shall be built according to the regulations for a lower rate of building than such house or building, the fee for such offices shall be paid in addition to the fee for the house or building, and according to the rate they shall be of.

And whenever any addition or alteration shall be made to any house or building, the fee payable by the owner thereof to the Surveyor, according to this Act, shall become due and shall be paid within *Fourteen* Days after the completion of all the works connected with such alteration that shall be according to this Act under the supervision of such Surveyor, and such fee shall be payable on every alteration or addition made to any house or building which shall involve the execution of works subject to the regulations of this Act, and the fees payable thereon shall be as follows; (that is to say)

	£.	s.	d.
For every Building of the First Rate - - -	3	13	6
„ „ Second „ - - -	3	3	–
„ „ Third „ - - -	2	12	6
„ „ Fourth „ - - -	2	2	–
„ „ Fifth „ - - -	1	1	–
„ „ Sixth „ - - -	3	3	–

And whenever any addition or alteration shall be made to any public building, there shall be paid to the Surveyor in whose district the same shall be, and to the Official Referees, such fees as the Secretary of State for the Home Department for the time being shall consider proper, and in proportion to the fees payable for a new public building.

And whenever any Surveyor shall have been required and shall have performed any special duties according to the enactments herein contained, he shall be paid for the same the several fees hereinafter mentioned, according to the service performed; (that is to say)

	£.	s.	d.
For surveying and certifying as to ruinous buildings -	2	2	–
For assisting to survey and certify as to ruinous buildings - - - - - - - - -	1	1	–
For attending to the cutting away of chimney-breasts for external wall - - - - - - - -	2	2	–

For

District Surveyors, &c.

	£.	s.	d.
For supervision of the building or rebuilding of lofty chimneys or towers for steam-engines, in addition to the First Rate fee - - - - - - -	5	5	–
For condemning party fence walls - - - - -	1	1	–
For the inspection and removal of projections, &c., in imminent danger - - - - - - -	2	2	–

And whenever any service shall be performed by any Surveyor which is contemplated by this Act, but not included and comprehended under any of the foregoing heads, there shall be paid for such service by the person to whom it may be rendered such fee as any Two Justices of the Peace shall, by writing under their hands, order and appoint; and all such fees as aforesaid, and all the fees for special services hereinbefore enumerated, shall become due and be payable within *Fourteen* Days after each several service shall have been performed.

130.

And be it Enacted, That the Official Referees aforesaid shall, in addition to the fees before mentioned, have and be entitled to the following fees:

For every survey directed to be made by them, the sum of Pounds each.

For every certificate signed by them, in pursuance of the directions of this Act, the sum of Pounds each.

For every award to be made, in pursuance of the directions of this Act, the sum of Pounds each.

131.

And be it Enacted, That every Clerk of the Peace shall be entitled to a fee of One Shilling for every matter directed to be filed with him, and the sum of per folio of One hundred words for every quarterly Surveyor's accounts directed to be filed, such payment to be made by the party filing the same.

Intermixed.

132. Court of Mayor and Aldermen.

Provided always, and be it Enacted, That all the powers and authorities by this Act vested in the Mayor and Aldermen of the City of London, may be lawfully exercised by the Court of Mayor and Aldermen of the said City, to be holden in the Outer Chamber of the Guildhall of the said City, according to the custom of the said City.

As to Distresses.

133. Distress not unlawful for want of form, &c.

And be it Enacted, That when any distress shall be made for any sum or sums of money to be recovered by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect of form in any proceedings relating thereto; nor shall the party or parties be deemed a trespasser or trespassers ab initio, on

As to Distresses.

account of any irregularity done by him or them; but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage only by action on the case, and not by any other action whatsoever.

134. Plaintiff not to recover if tender of sufficient amends be made, &c.

Provided always, and be it Enacted, That no plaintiff shall recover in any action for any such irregularity or other proceedings, if tender of sufficient amends be made, by or on the behalf of the party or parties who committed, or caused to be committed, any such irregularity or wrongful proceeding before such action be brought; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by the leave of the court where such action shall depend, at any time before issue joined, to pay into the court such sums of money as he or they shall see fit, whereupon such proceedings or order and judgment shall be had, made or given in and by such court as in other actions where the defendant is allowed to pay money into court.

Law Clauses.

135. No Order of the Mayor or Justice, or other proceeding, to be removed by Certiorari.

And be it Enacted, That no order which shall be made by virtue of or under this Act, or any other proceeding to be had, touching the conviction of any offender or offenders against this Act, shall be removed or removable by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster.

136. Parishioners may be Witnesses.

And be it Enacted, That the parishioners and inhabitants of the parish, precinct or place where any offence against this Act shall be committed, shall be allowed to be competent witnesses on the trial, or otherwise, in any action, bill, or in any of the said Courts of Record, or at or upon the hearing and determination of any matter before the Mayor of London or other Justice of the Peace, for or concerning any offence or offences against this present Act, notwithstanding his, her or their being a parishioner or parishioners, inhabitant or inhabitants, in such parish, precinct or place: Provided always, That no action or prosecution shall be brought or commenced against any person or persons for any penalty or forfeiture inflicted or incurred by this Act, unless the same shall be commenced within Six calendar Months next after such forfeiture shall have been incurred; and all penalties hereby inflicted and not specifically appropriated, shall be recovered and received, suing for the same, or giving information under the provisions of this Act.

Limitation of Actions for Penalties.

137. Limitations of Actions against Persons rating under the Act.

And be it Enacted, That no action or suit shall be commenced against any person or persons, for any thing done in pursuance of this Act, until *Twenty-one* Days after notice in writing of an intention to bring such action or suit has been given to the person

or

or persons against whom such action or suit shall be brought, nor after the expiration of *Three* calendar Months next after the fact committed, and every such action or suit, the cause whereof shall arise within the said City of London, or the liberties thereof, shall be laid and tried in the said City of London, and not elsewhere; and every such action or suit, the cause whereof shall arise in any part of the limits aforesaid out of the said City of London and liberties thereof, shall be laid and tried in the County of Middlesex, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial or trials to be had thereupon, and that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act; and if the said matter or thing appear to have been so done, or if it appear that such action or suit was brought before the expiration of *Twenty-one* Days after such notice given as aforesaid, or that sufficient satisfaction was made or tendered before such action was brought, or if any such action or suit be not commenced within the time herein for that purpose limited, or be laid in any other county or place than as aforesaid, then the Jury in every such action or suit shall find for the defendant or defendants therein; and if a verdict be found for the defendant or defendants, or if the plaintiff or plaintiffs in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, judgment be given for the defendant or defendants therein, on demurrer, or by default, or otherwise, then and in any of the cases aforesaid the defendant or defendants shall have judgment to recover *Treble* costs of suit, and shall have such remedy for recovering the same as any defendant or defendants may have for costs in other cases by law.

General Issue.

138. Act not to avoid Agreements.

And be it Enacted, That nothing herein contained shall avoid any agreement in writing made before the passing of this Act for building or altering any building, but that the same shall be performed with all the alterations which may be rendered necessary by this Act, and as if such alterations had formed part of the agreement; and that the difference between the costs and expenses of the work when performed according to the provisions of this Act, and the work as stipulated for in such agreement, if the parties thereto shall disagree about the same, shall and may be submitted by either party (notice being given in writing to the other) to the Surveyor, who shall determine the same, and whose determination shall be final and binding on all the parties, and in all respects as if his determination had formed part of the contract; and such Surveyor shall have power to direct either party to pay the costs of the Referees, and shall for his certificate be entitled to a fee of Pounds.

139. Occupiers may deduct Charges from Rent.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney, or roof, or parapet or other wall, or any building or part of any building, or any other costs, charges and expenses which the owner of such building would primarily be liable to pay under the provisions of this Act, or upon whose goods and chattels such costs, charges and expenses may be levied in pursuance of this Act, may deduct the amount of such costs, charges and expenses, and the costs, charges and expenses of any distress and sale, out of the rent due to his landlord or lessor, unless there shall be some express agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment, as the case may be, of the rent due to him by such occupier as aforesaid, or otherwise the same shall be repaid to such occupier by such lessor or landlord, and in default thereof may be recovered by such occupier from such lessor or landlord by execution or suit in any of Her Majesty's courts of law, unless in any case there shall be an express agreement between the parties to the contrary.

140. And be it Enacted, That no Stamp Duty shall be payable on any certificate or award to be signed by any Surveyor or Official Referees in pursuance of this Act.

141. And be it Enacted, That if any house, building, matter or thing, subject to the provisions of this Act, shall be part in one district and part in another, then the Official Referees shall determine in which district for the purposes of this Act the same should be, and such determination shall be final; and the party requiring the decision of such Referees shall pay the sum of Pounds to each for his fee.

142. And be it Enacted, That in case any difference shall arise between any parties with respect to any matter or thing done or to be done in pursuance of this Act, or otherwise as to the provisions of this Act, or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect, then if any of the parties interested in the matter shall require it, such point in difference shall be referred to the award of the said Official Referees, and the award of them, or of any Two of them, in writing, on all or any of the points in difference, shall be binding on all parties; and as regards such award and every other award to be made by such Referees in pursuance of the directions of this Act, the same

same shall have the same effect as if the same had been made under an order of reference made by Her Majesty's Court of Queen's Bench at Westminster; and such Referees shall have all such powers, as arbitrators, as they would have had in case they had been appointed under the order of the said Court; and their award shall be enforced by the said Court in all respects as if made under an order of such Court.

143. Act may be altered during present Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

Metropolitan Buildings.

A

B I L L

For the better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

(*Prepared and brought in by*
The Earl of Lincoln and Sir James Graham.)

Ordered, by The House of Commons, *to be Printed,*
10 *April* 1843.

[*Price* 8*d.*]

181.

Under 12 *oz.*

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the better regulating the Buildings of the Metropolitan Districts, and to provide for the Drainage thereof.

[N. B.—*The Clauses marked* (A.) *to* (Q.) *were added by the Committee.*]

Preamble.

WHEREAS it is expedient to alter and amend the Laws now in force for the regulation of Buildings in the Metropolis and in the Neighbourhood thereof, and to improve the Drainage of such Buildings, and to provide for the superintendence of the execution of such Laws by the appointment of Official Referees; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the First day of January One thousand eight hundred and Forty-four, the following Acts and parts of Acts shall be and the same are hereby repealed, except so far as any of the said Acts may repeal any other Act, either wholly or partly, and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the first of the hereinafter referred to Acts, on or before the said First day of January One thousand eight hundred and Forty-four; (that is to say),

1. Repeal of existing Acts.

14 Geo. 3, c. 78.

An Act passed in the fourteenth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for the further and better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, and the Liberties thereof, and other the Parishes, Precincts and Places within the Weekly Bills of Mortality, the Parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke, Chelsea, in the

the County of Middlesex; and for indemnifying, under certain Conditions, Builders and other Persons against the Penalties to which they are or may be liable for erecting Buildings within the Limits aforesaid contrary to Law:"

50 G. 3, c. 75. An Act passed in the fiftieth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to amend an Act of the Fourteenth Year of his present Majesty, for the better Regulation of Buildings and Party Walls, and for the more effectually preventing Mischiefs by Fire within the Cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of Houses and Buildings within the Places therein mentioned:"

4 & 5 W. 4. And so much and such parts of an Act passed in the Session held in the fourth and fifth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the better Regulation of Chimney Sweepers and their Apprentices, and for

3 & 4 Vict. the safer Construction of Chimneys and Flues," and of an Act passed in the Session held in the third and fourth years of the reign of Her present Majesty, intituled, "An Act for the Regulation of Chimney Sweepers and Chimneys," respectively, as relate to the construction and regulation of Chimneys and Flues within the limits of this Act, but not otherwise.

2. Interpretation Clause. AND for the better comprehension of the terms used in this Act; BE it Enacted, That the following words and expressions shall, throughout this Act, have the several meanings hereby assigned to them, unless where the context shall be repugnant to such construction; that is to say)

The word "house" shall mean a dwelling-house, and the offices attached thereto:

The word "building" shall mean any other building within the operation of this Act than a dwelling-house, and the offices attached thereto.

The term "external wall" shall comprise all outer walls of buildings now or hereafter to be built which shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as party walls under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party walls:

The term "party wall" shall comprise all walls which shall be used or built in order to be used as a separation of two or more buildings for the occupation of different families, or actually occupied by different families, and also all walls which shall stand

upon

upon ground not wholly belonging to the same ownership or occupation:

The word "street" shall include every square, circus, crescent, street, road, place, row, mews, lane or place used or which may be used or is designed to be used as a carriage-way:

The word "alley" shall include any court, alley, passage or other public place which may be used or is designed to be used as a footway only:

The word "owner" shall mean the person or persons in possession or receipt of the rents or profits of any ground or tenement:

The term "Official Referees" shall mean the persons appointed in pursuance of this Act to be Official Referees.

The word "surveyor" shall include all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act, and also all deputy surveyors to be appointed in like manner:

And the word "surveyor" shall always be taken to mean the surveyor in whose district the buildings, street or alley, or other subject matter shall be:

And the term "already built" shall apply to all buildings built before the First day of January One thousand eight hundred and Forty-four, or laid out before that day and covered in within Twelve Months thereafter, and to all streets or alleys made and laid out before that day, and which shall be formed and rendered fit for use within Twelve Months thereafter.

And the term "hereafter to be built" shall apply to all buildings, streets or alleys to be built or laid out after the First day of January One thousand eight hundred and Forty-four:

The word "Month" shall be taken to mean calendar Month:

The words "Clerk of the Peace" shall mean the Clerk of the Peace for the county or place within which the building or other subject matter is situate:

"A Justice of the Peace" shall mean a Justice of the Peace for the county within which the building or other subject-matter or any part thereof is situate, except when the building or other subject-matter is within the City of London or the Liberties thereof; then any matter or thing to be done by Two Justices of the Peace may be done by the Lord Mayor of the City of London, or any Two Justices of the Peace for the said City:

And all words importing the singular number and masculine

gender respectively, shall include respectively the plural number and feminine gender:

A Square shall contain One hundred square or superficial Feet.

3. Limits of Act.

And be it Enacted, That this Act shall extend to all buildings of what nature or kind soever (excepting bridges, embankments or structures wholly under ground) situate in any part or place lying on the north side of the River Thames within that part of the county of Middlesex which is inclosed by the exterior boundaries of the parishes of Fulham, Kensington, of the out-lying part of the parish of Chelsea, to the north of the said parish of Kensington, of the parishes of Paddington, Hampstead, Saint Pancras, Hornsey, Tottenham, Hackney, Stratford, Bromley, Poplar and Shadwell, or in any part or place lying on the south side of the said river within those parts of the counties of Kent and Surrey which are inclosed by the exterior boundaries of the parishes of Woolwich, Charlton, Greenwich, Lee, Lewisham, Camberwell, Lambeth, Streatham, Tooting and Wandsworth.

4. Buildings to be divided into Rates.

And be it Enacted, That all such buildings already built, or which shall be hereafter built within the limits of this Act, whether upon new or old foundations, or on foundations partly new and partly old, distinguished and divided into the several Rates of Buildings hereinafter described, shall be built, rebuilt, altered or enlarged according to the rules and directions hereinafter contained concerning the same respectively.

5. Clause (A.) First Rate of Building.

And be it Enacted, That every house which shall have more than Six Floors, or which shall be higher than Eighty-two Feet, and every brewery, distillery, manufactory, warehouse, or other building whatsoever, which shall be higher than Sixty-five Feet, shall be deemed to be of the First Rate of Building.

6. Second Rate of Building.

And be it Enacted, That every house which shall have more than Five Floors, and which shall be higher than Sixty-five Feet, and not higher than Eighty-two Feet; and every brewery, distillery, manufactory, warehouse or other building whatsoever, which shall be higher than Fifty Feet, and shall not be higher than Sixty-five Feet, shall be deemed to be of the Second Rate of Building.

7. Third Rate of Building.

And be it Enacted, That every house which shall not have more than Five Floors, or which shall be of the height of Forty-seven Feet, and shall not be higher than Sixty-five Feet; and every brewery, distillery, manufactory, warehouse or other building whatsoever which shall be higher than Thirty Feet, and shall not be higher than Fifty Feet, shall be deemed of the Third Rate of Building.

And

8. Fourth Rate of Building.

And be it Enacted, That every house which shall not have more than Four Floors, or which shall be of the height of Thirty-three Feet, and shall not be higher than Forty-seven Feet; and every brewery, distillery, manufactory, warehouse or other building whatsoever, which shall be higher than Twenty-two Feet and shall not exceed Thirty Feet, shall be deemed of the FOURTH RATE OF BUILDING.

9. Fifth Rate of Building.

And be it Enacted, That every house which shall not have more than Three Floors, or which shall be of the height of Twenty-two Feet, and shall not be higher than Thirty-three Feet; and every brewery, distillery, manufactory, warehouse, or other building whatsoever, which shall not be higher than Twenty-two Feet, shall be deemed of the FIFTH RATE OF BUILDING.

10. Sixth Rate of Building.

And be it Enacted, That every house and other building not being a brewery, distillery, manufactory or warehouse, which shall contain only Two Floors, and shall not exceed a height of Twenty-two Feet from the top of the footings to the top of the wall or parapet of any one of the fronts thereof, and which shall not cover a larger area than Four Squares, shall be deemed of the SIXTH RATE OF BUILDING.

11. Attached Buildings and Offices to be rated distinctly.

And be it Enacted, That any building or office now built or hereafter to be built, attached to any dwelling-house or building of the First, Second, Third, Fourth and Fifth Rates, and to be held in the same occupation therewith, and whether such attached building or office was or shall be built at the same time with such dwelling-house or building to which the same shall be attached, or at any time afterwards, shall, so far as regards the external walls thereof, be held to be of the Rate of which such attached building or office would be if not so attached, but so far as regards the party walls thereof, if any, shall be held to be of the Rate of the dwelling-house or building of the highest Rate on either side of such party walls; nevertheless any greenhouse for plants, vinery, aviary, or such like building, either attached to or detached from any house or building, may be built in such manner and of any such sort of materials as shall be approved by the Surveyor in whose district the same shall be built, provided that such building be not contrary to law, nor injurious to the house or buildings adjoining thereto, and provided also, that the party wall, if any, shall be built as hereinafter directed for party walls.

12. Detached Buildings and Offices to be rated distinctly.

And be it Enacted, That every building or office now built, or which shall hereafter be built, to be held in the same occupation with any house or building of the First, Second, Third, Fourth and Fifth Rate, and entirely free and detached from such house or building,

building, or connected therewith only by a fence or fence wall or covered passage, open on one or both sides, shall be deemed to be of the Rate such building or office would be of if the same did not belong to such house or building.

13. Parties desirous of erecting a Building not belonging to any of the Rates.

And be it Enacted, That in case any party shall be desirous of erecting any building which, in the opinion of the Surveyor, shall not come within any of the aforesaid Rates, then the same shall be built in and according to such Rate as the Surveyor shall direct; and if the party so desirous to build shall be dissatisfied with the decision of the Surveyor, it shall be referred to the Official Referees, and their decision shall be final.

14. Rule for computing Floors and the height of Buildings.

And be it Enacted, That the floors of all buildings shall be counted from the foundation inclusively, but exclusive of the rooms in the roof thereof (if any); and that the height of all buildings shall be measured from the surface of the lowest or first floor to the top of the wall or parapet of any one of the fronts thereof.

15. Method of ascertaining the Rate.

And be it Enacted, That the Rate of any house or building shall be ascertained by the Surveyor by measurement of the wall of the highest front or side thereof, not being a party wall; and that the number of Squares contained in any house or building shall be ascertained by such Surveyor by measurement of the surface of the floor containing the greatest number of Squares at or above the principal entrance to such house or building, including the external walls and such parts of the party walls as belong to such house or building, but not any attached office, area or balcony or open portico.

16. The thickness of Walls to be ascertained by measuring only the original thickness.

And be it Enacted, That the thickness of any party wall, external wall, or party fence wall, and of the footing thereof, of any house or building already built, or which shall be hereafter built, shall be ascertained by measuring only the thickness of which such walls or footings shall have been originally built.

17. Widths of Streets, Courts, &c.

And be it Enacted, That it shall not be lawful, after the passing of this Act, to form any street of a less width in every part thereof than Thirty Feet, nor any alley, unless such alley shall have two entrances thereto, each being at least Twenty Feet wide, and open from the ground upwards, or one entrance thereto, being Thirty Feet wide and open from the ground upwards; and every such first-mentioned alley shall be not less than Twenty Feet wide in every part thereof; and every such last-mentioned alley shall be not less than Thirty Feet wide in every part thereof; and the width of every street or alley shall be ascertained by measuring (at right angles to the course thereof) such width only as shall be given up to or used by the public, or shall be paved or lighted at the public expense.

How to ascertain the Widths of Streets.

18.
CLAUSE (B.) Dwelling-houses to have a back yard One Square.

And be it Enacted, That every house hereafter built shall have an inclosed back yard or open space of at least One Square, exclusive of any building thereon, and that every house already built which shall be hereafter rebuilt, shall have an open space above the level of the floor of the third story of at least Three quarters of a Square, unless all the rooms of such house above such level can be lighted and ventilated from the street or from an area of like extent into which the owner of the house to be rebuilt may be entitled to open windows for every room adjoining thereto.

19.
No underground Room to be built as a Dwelling, unless there shall be an open area.

And be it Enacted, That it shall not be lawful hereafter to build any house or building, either upon old or new foundations, in which the floor of any room or cellar intended to be used as a separate dwelling shall be below the surface or level of the ground in the immediate neighbourhood of such house or building, unless there shall be an area not less than Three Feet wide in every part, from Six Inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side of such room or cellar, and extending the full length of such side, and unless the part or space of at least Five Feet long and Two Feet Six Inches wide in front of the window of such room or cellar, shall be left open, or covered only with open iron gratings.

20.
Occupation of Cellars, &c.

Penalty.

And be it Enacted, That in any house already built, or which shall be hereafter built, it shall not be lawful to let separately, except as a warehouse or storehouse, nor to occupy or suffer to be occupied for hire as a separate dwelling any room containing less than One Square, nor any underground cellar or room of any dimensions, unless every such room shall have a window in the same to an open area, and a fire-place with a proper flue therefrom, and an open area adjoining to such underground cellar or room as herein directed, nor shall it be lawful to use, or to suffer to be used, any part of any dwelling-house as a pigsty, dog-kennel, or any other like noxious purpose; and every person who shall wilfully let or suffer to be occupied or used in manner aforesaid any underground cellar or room contrary to the provisions of this Act, shall, on conviction thereof before Two Justices of the Peace, forfeit and pay a sum not exceeding Twenty Shillings for every day that such cellar or room shall be so occupied, Half of which penalty shall go to the person who shall be the informer, and the other Half to the Poor of the Parish in which such unlawfully occupied or used cellar or room shall be situate.

21.
Every underground Room used for a dwelling to

And be it Enacted, That there shall be made for every underground room used or intended to be used as a dwelling in every house or building which shall be hereafter built, a fire-place at least Three

have a Fire-place and Window.

Feet high, and at least Two Feet Six Inches wide, with proper flue therefrom; and also a window opening at least Four Feet high, and at least Three Feet wide in the clear of the reveals; which window opening shall be fitted with a frame filled in with glazed sashes, of which at least One-half shall be made to open for ventilation.

22. Regulating Heights of Rooms.

And be it Enacted, That in any house or building which shall be hereafter built or rebuilt, there shall not be in any part of the roof thereof more than One Floor of rooms, which rooms shall not be of a less height than Seven Feet, except the sloping part, if any, of such roof, which shall not begin at less than Three Feet Six Inches above the floor, nor extend more than Three Feet Six Inches on the ceiling of such room; and no room in any other part of the house or building of a less height than Seven Feet from the floor to the ceiling, shall be used as a separate dwelling.

23. No Buildings to be hereafter erected nearer to noxious Trades than Fifty Feet.

And be it Enacted, That it shall not be lawful hereafter to build any house or building of any Rate whatever nearer than Fifty Feet to any building which may be used for dangerous, offensive or noxious trades and businesses.

24. Penalty for carrying on certain Trades within certain limits.

And be it Enacted, for the purpose of further restraining the carrying on of trades or businesses dangerous as regards fire, or offensive, noxious or dangerous as regards either persons living in the neighbourhood of such trades or businesses, or passengers in populous situations within the limits of this Act, That if any person shall carry on in any house or building or vault, or in the open air, at a less distance than Forty Feet from any public way, or than Fifty Feet from any other house or building, any of the following trades or businesses, except during the period of Thirty Years from the passing of this Act, such as shall have been established before the passing of this Act, which may be carried on in the situations where they are now carried on for the said period of Thirty Years, (that is to say) any trade or business such as that of a soap-boiler, tallow-melter, slaughterer of cattle, sheep or horses, tripe-boiler, blood-boiler, bone-boiler, fellmonger, or any trade dangerous, offensive or noxious to the health of persons living in the neighbourhood or passengers, or any trade or business, such as that of a painted table-cover maker, manufacturer of gunpowder, detonating powder, lucifer matches, vitriol, turpentine, naphtha or varnish, or fireworks, or any trade or business dangerous as regards fire, then every such person shall, on conviction thereof before Two Justices of the Peace, forfeit a sum not exceeding Fifty Pounds, as the said Justices shall determine; and in case of default or refusal to pay the same immediately after such conviction, then such penalty may be levied by distress of the goods and chattels

of

of the person convicted, or in default of such distress, such person shall be committed, by warrant under the hands and seals of Two or more Justices of the Peace, to the common gaol or house of correction for any time not exceeding Six Months, at the discretion of such Justices.

25. Clause (C.) Appeal as to certain Trades, not specified.

Provided always, and be it Enacted, with regard to any trades or businesses not hereinbefore specified as offensive, noxious or dangerous, or which shall not have been determined by a judgment of one of Her Majesty's Supreme Courts of Law at Westminster, upon a verdict of a jury, to be offensive, noxious or dangerous, the party convicted of carrying on such trade or business may appeal against such conviction to the Justices of the Peace at their General Quarter Sessions of the Peace to be holden in and for the city of London and liberties thereof, the counties of Middlesex, Kent and Surrey, the city and liberties of Westminster or the liberties of Her Majesty's Tower of London, as the case may be, which shall be holden within Four Months after such conviction, who shall proceed to hear and examine on oath into the causes and matters of such appeal (which oath they are hereby empowered to administer), and shall determine the same, and award such costs to the party appealing or appealed against as they shall think proper; and the order, judgment and determination of the said Justices in their respective Sessions shall be binding and conclusive to all parties: Provided always, That the person so intending to appeal shall, within Two Days after such conviction, enter into a recognizance to the party appealed against before such Justices of the Peace, with Two sufficient Securities, conditioned to try such appeal and to abide the order of and pay to the party appealed against such costs (if any) as shall be awarded against him by the Sessions respectively.

26. Clause (D.) Sessions of Surrey to be held at Southwark.

Provided always, and be it further Enacted, That upon every application to the General Quarter Sessions of the Peace for the county of Surrey, in pursuance of this Act, the Jury (if any) to be impanneled, and all parties required to attend the Quarter Sessions for the said county pursuant to such application, shall be impanneled and required to attend at some general or special adjournment of the said Quarter Sessions within Six Weeks next after such application, which adjournment shall be to some convenient place in the borough of Southwark, in the said county, to be appointed by the Justices in the said Sessions; and that from time to time every further meeting of the said Sessions for any thing to be done upon such application, shall be appointed at or within the space of Three Weeks from the last meeting, which adjournment the Justices of the Peace for the said county of Surrey and every of them are hereby empowered and required to make and hold from time to time as there shall be occasion.

27. CLAUSE (E.) Sessions of Kent to be held at Greenwich.

Provided always, and be it further Enacted, That upon every application to the General Quarter Sessions of the Peace for the county of Kent, in pursuance of this Act, the Jury (if any) to be impanneled, and all parties required to attend the Quarter Sessions for the said county pursuant to such application, shall be impanneled and required to attend at some general or special adjournment of the said Quarter Sessions within Six Weeks next after such application, which adjournment shall be to some convenient place in the Borough of Greenwich, in the said county, to be appointed by the Justices in the said Sessions; and that from time to time every further meeting of the said Sessions for any thing to be done upon such application, shall be appointed at or within the space of Three Weeks from the last meeting, which adjournment the Justices of the Peace for the said county of Kent and every of them are hereby empowered and required to make and hold from time to time as there shall be occasion.

28. CLAUSE (F.) Proviso that Common Law remedies and statutory remedies as to certain trades are not to be affected.

Provided always, and be it Enacted, That nothing in this Act contained shall make it lawful to carry on any trade or business which is contrary to any existing Act of Parliament or otherwise contrary to law, nor to make it lawful to carry on any such trade or business within any limits or in any manner contrary to any Act of Parliament or otherwise contrary to law, nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall so carry on within the limits of this Act any offensive, noxious or dangerous trade or business.

29. CLAUSE (G.) Special Supervision for First Rate Buildings and Public Buildings.

And be it Enacted, for the purpose of providing for the safety of the public with regard to all houses and buildings of whatever rate, used or intended to be used, either occasionally or constantly, for the assemblage of persons in large numbers, whether for public worship, business, instruction, debate, diversion or resort, That every such building which shall be hereafter built, rebuilt, enlarged or altered, shall be subject to the regulations and to the special supervision herein provided; and if any difference shall arise as to whether any such building be liable to such special supervision, the same shall be determined by the Official Referees, subject nevertheless to an appeal at the instance of any party interested, to Her Majesty's Principal Secretary of State acting for the Home Department, whose decision in the matter shall be final; and further, for the purpose of providing for the safety of the public, all houses and buildings of the first rate shall also be subject to the like regulations and special supervision, (that is to say) all such public buildings shall be built with party walls and external walls at least Four Inches thicker than is herein required for party and external walls of buildings of the rate to which they shall belong; and all first-rate houses and buildings shall be built with

with party and external walls at least Four Inches thicker than is herein required for party and external walls of the second rate; and all such public buildings and first-rate houses and buildings shall be built in all other respects according to the regulations of this Act, so far as the same shall apply; and when all the walls of every such public building and first-rate house or building shall have been built of their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, and when such public building and first-rate house or building shall have been covered in, the Architect or Builder shall give notice thereof to the Official Referees, who shall, if they shall be of opinion that such building is subject to the special supervision herein provided, within Seven Days after such notice, survey the said public building, or first-rate house or building, and within Seven Days after such survey shall certify under their hands, or under the hands of any Two of them, to the Architect or Builder, their approval of the same; or if any part of the walls, timbers, roof or internal supports appear to such Referees defective, insufficient or insecure, then, within the said Seven Days after such survey, they shall give to such Architect or Builder notice in writing of such parts as shall so appear to them defective, insufficient or insecure; and upon such notice, the said Architect or Builder shall amend and strengthen such defective, insufficient or insecure parts, and shall not cover up any such parts until such Referees shall be satisfied, and shall have certified in writing their approval as aforesaid; and upon the completion of every such public building or first-rate house or building, the Architect or Builder shall again give notice to the Official Referees, who shall within Seven Days after such notice survey the same, and shall after such survey certify under their hands, or under the hands of any Two of them, whether such building has been built to their satisfaction as regards the strength thereof, and such certificate shall be immediately filed with the Clerk of the Peace by the party who shall obtain the same, the said party paying such Clerk One Shilling for filing thereof, and no more; and then and in every such case, and not otherwise, it shall be lawful to use such building as aforesaid; and in case any such public building or first-rate house or building shall be used either as a dwelling-house or for any other of the purposes aforesaid, before such certificate of satisfaction as aforesaid shall have been filed with the Clerk of the Peace, such person shall, on conviction thereof before Two Justices of the Peace, forfeit a sum, not less than Five Pounds, nor exceeding Five hundred Pounds, to be paid by the owner or occupier of such house or building daily, until the filing of such certificate of satisfaction as aforesaid, One-half thereof to go to the person giving information, and the other Half to the poor of the parish in which such building shall be: Provided always, That if within Twenty Days from the assessing of such penalty such certificate of satisfaction

satisfaction shall not have been filed as aforesaid, such house or building shall be liable to be abated as a nuisance under the powers in this Act contained.

30. Single Houses and Buildings may be divided into Two or more.

And be it Enacted, That every wall which shall hereafter be built to divide any house or building into Two or more distinct houses or buildings, shall be built as a party wall, in the manner and of the materials, and of the several heights and thicknesses hereinafter prescribed for party walls of the highest rate of building to which such party wall shall belong or adjoin; and every house or building already built, or which shall hereafter be built, and which shall be converted, used or occupied as Two or more separate houses or buildings, each having a separate entrance and staircase, and each being separately rated to the poor, shall be deemed to be Two or more separate houses, and shall be divided from each other by a party wall or party arch or party arches, built in the manner and of the materials required for party walls or for party arches, for the rate to which the largest of the buildings so divided shall belong.

31. Houses covering more than Twelve Squares to have Second Rate Walls.

And be it Enacted, That every dwelling-house which shall be hereafter built, which shall contain more than Twelve Squares, shall have external and party walls as herein prescribed for Second Rate buildings; and it shall be lawful to make openings through a party wall between one dwelling-house and another dwelling-house, and thereby to unite Two or more dwelling-houses, provided that when the houses so united shall contain more than Twelve Squares, they shall each have external and party walls as herein directed for Second Rate buildings; and provided that such dwelling-houses shall be and shall continue to be in the same occupation, and the poor's-rate thereof paid by the same person; and provided also, that by making such openings the stability of any or either of such dwelling-houses shall not, in the opinion of the Official Referees, be endangered.

32. No Building used as a Warehouse to exceed Thirty-five Squares, unless divided by Party Walls, or built in part Fire-proof.

And be it Enacted, That it shall not be lawful hereafter to use for warehouses or workshops any building built or rebuilt after the passing of this Act, which shall exceed Thirty-five Squares, unless such building be divided by party walls in Two or more divisions, or unless such portions of such building as may be thought necessary by the Official Referees, shall be built fire-proof; and with regard to such warehouses and workshops so divided by party walls, it shall be lawful to form openings in such party walls, provided every such opening shall be floored with brick or stone, and shall be protected by brick piers, at least Fourteen Inches wide, and projecting at least One Foot Six Inches from each face of such party wall, and shall have brick arches or stone landings the entire width and depth of such opening, above and below the same; and every such opening shall be not more than Six Feet wide and Eight Feet high,

high, and shall be provided with Two strong wrought-iron single or folding doors, fixed in wrought-iron frames, and not less than One-fourth of an Inch thick in the panels thereof, and the space between such doors shall not be less than Four Feet; and with regard to such warehouses and workshops so built in part fire-proof, the part or parts thereof built fire-proof shall be built of such materials and in such manner as shall be approved of by the Official Referees, and no single part thereof not built fire-proof shall exceed Thirty-five Squares.

33. No Stables to contain more than Twenty-five Squares.

And be it Enacted, That no portion of any building for stables, including coach-houses and harness-rooms, which shall be hereafter built, shall contain within its walls, whether party walls or external walls, more than Twenty-five Squares; nor shall any enlargement be made at any time hereafter to any building for stables already built or which shall be hereafter built, so that any portion of the same when enlarged, including coach-houses and harness-rooms, shall contain more than Twenty-five Squares as aforesaid.

34. Isolated Buildings not required to be built according to Rules, but when divided, to become subjected to Rules.

And be it Enacted, That every building of whatever rate, which shall be isolated at the distance of Twenty Feet at the least from any existing or intended street or alley, and which shall be distant Fifty Feet at the least from any house or building, or from ground not in the same possession or occupation therewith, or connected therewith only by a fence or fence wall, may be built of any dimensions and of any materials whatever; and if any such building shall be hereafter divided into Two or more distinct buildings, and the several parts of such buildings so divided shall not be at the aforesaid distance from each other and from other buildings and ground, then every such several parts of such buildings so divided as shall not be at such several distances shall be deemed public nuisances, and shall be taken down as such, unless the external walls of such several parts shall be built in the manner and of the materials, and at least of the several heights and thicknesses herein prescribed for external walls of the rates such several parts shall be of when so divided, and unless, if the several parts of the buildings so divided shall adjoin such parts, they have also such external walls, and are separated from each other by such party walls as are herein prescribed for the rates to which such several parts so adjoining shall belong, and are built in every other respect as is herein required for buildings of the rates to which such several parts when so divided shall belong.

35. Regulation as to Toll Houses.

And be it Enacted, That every building which shall be built for the purposes of trade or the collection of toll, and which shall be detached Fifteen Feet at the least from any other house or building, and which shall not cover more than One hundred square Feet of ground, and the height of which shall not exceed Twelve Feet from the

ground to the highest point of the roof, may be inclosed with any materials whatsoever, except the roof, which shall be covered as herein directed with respect to roofs, and except the chimney and flue (if any), which shall be built as herein directed with respect to chimneys and flues.

36. Footing to be laid on Maiden Foundations or on Concrete.

And be it Enacted, That the footing of every party wall, external wall and other wall of every house or building which shall be hereafter built, and of every addition or alteration of every house already built or which shall be hereafter built, shall be laid either upon a natural solid stratum of ground, or upon a foundation of concrete at least Eighteen Inches thick and Twelve Inches wider than the bottom of such footing, such concrete to be composed of stone-lime mixed with Thames ballast, broken stone, flint, sharp clean gravel or burnt clay, in the proportion of at least One Bushel of stone-lime to Eight Bushels of such Thames ballast, stone, flint gravel or burnt clay; and that in the party walls, external walls or other walls of every house hereafter built, and of every addition to any house already built or which shall be hereafter built, the two courses of brickwork immediately below the level of the bottom of the paving or of the timbers of the lowest or first floor shall be of good sound stock bricks laid in good cement.

Two course of Brick-work below lowest Floor to be laid in Cement.

37. Houses not to be built above Ten Feet high till properly drained.

And be it Enacted, That every house or building which shall be hereafter built, and every addition to every house or building which shall be hereafter built, shall be drained as hereinafter directed; and that the several walls thereof shall not be built higher than Ten Feet from their foundations before the drains of such house or building, or addition thereto, shall have been properly built and made good into the common sewer, if any, in front thereof, within Thirty Feet distance from such building into which it is lawful and practicable to drain, or otherwise into proper and sufficient cesspools, so as to render such drains available for the perfect drainage of the lowest floor of such house or building or addition thereto, and also of its areas, water-closets, privies and offices (if any).

38. Cesspools to be at least Three Feet clear and Five Feet deep.

And be it Enacted, That every cesspool for the reception of drainage, or for any privy or water-closet which shall hereafter be built, shall be steined with brickwork all round, at least Eight and a Half Inches thick, and shall be properly domed over at the top, and of at least Three Feet diameter in the clear, and Five Feet deep below the bottom of the drains at their entrance thereto; and every such cesspool, if built under any house, shall be built air-tight, to the satisfaction of the Surveyor; nevertheless, it shall not be lawful to build or use any cesspool for the reception of drainage within Thirty Feet of a common sewer, if any in front of such house, unless

No Cesspool to be used where there is a Common Sewer.

there

there shall be or shall be built a good and sufficient drain from such cesspool to such common sewer.

39. Privies to be properly screened from public view.

And be it Enacted, That every privy built in the yard or area of any house or building, or under any street or alley, shall have a door and be otherwise properly inclosed and screened and fenced from public view, to the satisfaction of the Surveyor.

40. Drains to be Sixty Inches clear.

All Drains within Houses covered over below Floor with Brick, Stone or Slate, and set and rendered in Cement.

Outside Drains to be Brick, Stone or Slate, set in Mortar or Cement.

And be it Enacted, That the inside of the drains under and from every house or building for carrying off soil shall be of an area of at least Sixty square or superficial Inches, and every such drain shall be laid to a fall or current of at least Half an Inch to Ten Feet, and so that the whole of every such drain within the walls of such house or building shall be wholly covered over under the lowest floor and independently thereof; and every such drain within the walls of such house or building shall be built and covered over with brick, stone or slate, set in cement, so as to render the drain air-tight, and Two-thirds at the least of the lowest part of the inside thereof shall be rendered with cement; and every part of such drain outside the walls of every house or building shall be built of brick, stone or slate, set in mortar or cement.

41. Footings of external Walls: Second, Third and Fourth Rates.

And be it Enacted, That every external wall which shall hereafter be built for any house or building of the Second, Third and Fourth Rates, shall be built upon a footing the width of which shall be at the least Nine Inches more than the thickness of the wall immediately above the same, and the height of which above the foundation shall be at the least One Foot, and at the least of Four courses of bricks or stone, laid in Two double courses, diminishing equally on each side, at the most Four Inches to the top thereof, except where stone landings shall be used, and the top of such footing shall be at the least Three Inches below the surface of the lowest ground or area adjoining thereto, and at the least Nine Inches below the surface of the lowest floor adjoining thereto of such house or building.

42. Thickness of external Walls: Second Rate.

And be it Enacted, That every such external wall for the Second Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of One Foot Ten Inches and a Half; from thence up to the underside of the fourth floor, shall be at the least of the thickness of One Foot Five Inches; and from thence up to the underside of the plate under the gutter of such house or building, shall be at the least of the thickness of Thirteen Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of Eight Inches and a Half.

43. Thickness of external Walls: Third Rate.

And be it Enacted, That every such external wall in the Third Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of One Foot Five Inches; from thence up to the underside of the plate under the gutter of such house or building, shall be at the least of the thickness of Thirteen Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of Eight Inches and a Half.

44. Thickness of external Walls: Fourth Rate.

And be it Enacted, That every such external wall in the Fourth Rate of building, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of One Foot Five Inches; from thence up to the underside of the gutter plate, shall be at the least of the thickness of Thirteen Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of Eight Inches and a Half.

45. External Walls: Fifth Rate.

And be it Enacted, That every external wall in the Fifth Rate of building, shall be built upon a footing, the width of which shall be at the least Nine Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be at the least Nine Inches, and at the least of Three courses of bricks or stone, laid in One double and One single course, diminishing equally on each side at the most Four Inches to the top thereof; and the top of such footing shall be at the least Three Inches below the surface of the lowest ground or area adjoining thereto, and at the least Nine Inches below the surface of the lowest floor of such house or building; and every such external wall, from the top of such footing to the underside of the gutter-plate, shall be at the least of the thickness of Thirteen Inches; and from thence up to the top of such external wall, shall be at the least of the thickness of Eight Inches and a Half.

46. External Walls: Sixth Rate.

And be it Enacted, That every external wall in the Sixth Rate of building, shall be built upon a footing, the width of which shall be at the least Nine Inches more than the wall is thick immediately above the same; and the height of which above the foundation shall be at the least Six Inches, and at the least of Two courses of bricks or stone, laid in Two single courses, diminishing equally on each side at the most Four Inches to the top thereof, and the top of such footing shall be at the least Three Inches below the surface of the lowest ground, or area adjoining thereto, and at least Nine Inches below the surface of the lowest floor of such house or building; and every such external wall, from the top of such footing to the top of such external wall, shall be at the least of the thickness of Eight Inches and a Half.

47. Height of External Walls above Gutters.

And be it Enacted, That every external wall shall be carried up and remain One Foot at the least above the highest part of the gutter adjoining

adjoining thereto, excepting where the roof of the house or building to which such wall shall belong shall overhang the same, in which case the wall shall be carried up of its full thickness to the underside of the plate of the roof.

48. Materials of External Walls.

And be it Enacted, That every external wall which shall hereafter be built for any house or building shall be built solid, of good, sound, bricks, or good, sound stone, properly bonded, and set in good and well-compounded mortar or cement, except such wood and iron work as may be required for plates, lintels, bonds, corbels, and bricks, the ends of girders and heads and sills of partitions, all of which shall be fixed at the distance of Four Inches at the least from the external face of such wall; and it may be lawful to insert, in openings left in such wall, the tiers of door-cases to warehouses, provided the same be fixed at the distance of Four Inches at the least from the face of such wall; also, the frames of doors and windows, provided the same be fixed in reveals, and recessed at least Four Inches from the face of such wall; also, such wood and iron work in the lowest or first floor, and in the ground floor, as may be required for bresummers, girders and story-posts, provided the same be fixed at least Two Inches from the face of such wall; and also, shop fronts, in such manner as hereinafter permitted.

49. External Walls, unless of proper thickness, &c. shall not become Party Walls, but adjoining Buildings shall have each an external Wall.

And be it Enacted, That no external wall of any house or building already built, or which shall be hereafter built, shall ever be used as a party wall, unless the same shall have such footings and be of such heights and thicknesses, and be built in such manner and of such materials as are herein directed for party walls of buildings of the highest Rate to which such wall shall adjoin; and if such external wall of any house or building shall not have such footings, nor be of such heights and thicknesses, nor be built in such manner and of such materials as aforesaid, then any house or building built adjoining thereto, not being such attached building or office as is hereinbefore described, shall have a distinct external wall, built as herein described for external walls of the Rate to which it shall belong.

50. Bresummers over Shop Fronts lying on Party Walls to lie on Stone Templates, and be carried by Piers, Columns or Story Posts.

And be it Enacted, That the end of every bresummer which shall be hereafter fixed to carry any front wall of any house or building which shall have a bearing upon a party wall, shall be laid upon an iron or upon a stone template, tailed through at least Two-thirds of the thickness of such party wall; and the end of every such bresummer shall not be fixed into and shall not have its bearing solely on such party wall, but shall be supported by a sufficient brick or stone pier, or iron column, or iron or timber story-post, fixed on a solid foundation; and if any such bresummer shall have its bearing at each end upon a party wall, then the same shall be supported by

Scantlings to be approved by the District Surveyor,

at least Two sufficient brick or stone piers, or iron columns, or iron or timber story-posts, fixed on solid foundations; and every such bresummer shall be of such scantlings, and fixed and supported in such manner as shall be satisfactory to the Surveyor.

51. Old external Walls or Inclosures may be repaired with the same Materials;

And be it Enacted, That every external wall or other external inclosure of any house or building already built, and not built of the materials required by this Act for external walls hereafter to be built, or other external inclosures hereafter to be built, may be at all times hereafter repaired with materials of the same sort or sorts as those of which such external wall or other external inclosure has been already built (except the inclosures of roofs, which, with the flats, gutters, dormers, turrets, lantern-lights or other erections thereon, shall be repaired with the materials hereinafter directed for the same); but in case any such external wall or other external inclosure shall be at any time hereafter taken down or otherwise demolished for the height of One story, or for a space equal to One-fourth the surface thereof, then every part thereof not built in the manner and of the several materials hereinbefore directed for external walls shall be taken down, and the same shall be rebuilt in such manner and of such materials and in all respects as is herein directed for external walls hereafter to be built, according to the Rate of the house or building to which such external wall or other external inclosure shall belong.

but must be pulled down altogether and rebuilt, if One Story or One-fourth is pulled down.

52. No projections over Public Way,

And be it Enacted, That no part of any house or building which shall be hereafter built or rebuilt, nor any projection therefrom, nor any steps, cellar doors or area inclosures, shall overhang or encroach upon any public way, or upon ground belonging to any other owner, without the consent in writing of such owner; but the walls of such house or building shall be set back, so that all projections therefrom shall only overhang the ground of the owner of such house or building; nevertheless, it shall be lawful (notwithstanding any Act heretofore passed to the contrary) to build the portico of any church, chapel, theatre or other public building over the foot pavement of any street or alley, provided such street or alley shall be Fifty Feet wide at the least, and provided the building of the same shall be previously sanctioned by the Official Referees by writing under their hands: Provided always, That any party interested may, within One Month after such sanction shall have been given, appeal therefrom to Her Majesty's Secretary of State acting for the Home Department, whose decision in the matter shall be final.

except for Public Buildings.

53. Projections may be made from Face Walls,

And be it Enacted, That no bow-window nor other projection of any sort or kind, shall be built with or added to the face or faces of any house or building already built, or which shall be hereafter built, in any street or alley, so as to extend beyond such line as shall be deemed the general line of the fronts of the houses in such

street

street or alley by the Surveyor or by the Official Referees, except over-hanging roofs, copings, cornices, piers, columns, pilasters and entablatures, facias, door and window dressings and other architectural decorations, verandahs of light open iron-work, balconies, porticoes, shop fronts, open inclosures to open areas, steps and waterpipes; but it may be lawful to build bow-windows and other projections from all other external walls, provided the same shall not overhang or encroach upon any public way or upon ground belonging to any other owner: Provided nevertheless, That all such projections from any house or building on the face or faces thereof in any street or alley, or from any other external wall thereof, shall be built so as not to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the houses or buildings adjoining thereto on any side thereof; and if any difference shall arise as to what shall be the general line of the front walls, or as to the injury which the owners or occupiers will suffer, then it shall be lawful for them or any of them to refer the question to the Official Referees, whose decision shall be final, and all costs and fees relating to such reference shall be borne by all, any or either of the parties thereto, in such manner as the Official Referees shall appoint.

and from other external Walls,

if not injurious to neighbours.

54. Materials of Projections.

And be it Enacted, That all cornices to overhanging roofs, parapets, blocking courses, copings, cornices, columns, pilasters and entablatures, facias, door and window dressings, and other architectural decorations forming part of an external wall, shall be built, and of the several materials hereinbefore directed for building external walls; and that all balconies, porticoes, inclosures to open areas and steps, and all other projections from external walls, shall be built of brick, stone, artificial stone, slate, cement or metal, except such wood-work as may be necessary for shop fronts and for the frames and sashes of windows and for doors; and excepting always houses and buildings which shall be at least Ten Feet from any public way, and at least Twenty Feet from any other house or building not in the same occupation, the projections from which may be made of any material whatever.

55. Shop Windows.

And be it Enacted, That it may be lawful to build with or add to any house or building, in any street or alley of the width of Thirty Feet or more (ascertained as hereinbefore directed), a shop front of which no part shall be higher than Fifteen Feet above the level of the public foot-pavement in front of the door thereof, and of which no part, except the cornice, shall project more than Ten Inches, and of which the cornice shall not project more than Eighteen Inches from the vertical line of the front brickwork of such house or building; and also that it may be lawful to build with or add to any house or

building, in any street or alley from Fifteen Feet to Thirty Feet wide (ascertained as hereinbefore directed), a shop front of which no part shall be higher than Fifteen Feet above the level of the public foot-pavement in front of the door thereof, and of which no part, except the cornice, shall project more than Five Inches, and of which the cornice shall not project more than Thirteen Inches from the vertical line of the front brickwork of such house or building; and all shop fronts may be built of any materials whatever; but no wood-work of any shop front shall be fixed nearer than Four Inches and a Half to the centre line of any party wall notice board; nor shall any part of any sign or notice board be fixed against or upon any part of any house or building above Eighteen Feet from the level of the street or alley.

Notice Board.

56. Materials of Roofs, &c.

And be it Enacted, That all the external parts of every roof, flat and gutter of every house and building, and of every projection therefrom, which shall be hereafter built, stripped, ripped or uncovered; and that every turret, dormer, lantern, light and other erection on the roof or flat of any house or building which shall be hereafter built or uncovered, shall be covered with slate, tiles, metal, glass, artificial stone or cement, except such wood as may be necessary for the door-frames and doors, window-frames and sashes of such turrets, dormers, lanterns, lights or other erections; and that the water which shall come from the roof, flat and gutter of every house or building, and from the roof, flat and gutter of every projection therefrom, and from balconies, verandahs and shop fronts, shall not be allowed to drip over any public way, but shall be conveyed from thence by metal gutters and pipes.

Water, how to be conveyed from Roofs.

57. Chimneys to be built from Foundations,

and not to oversail any part of Party Wall.

And be it Enacted, That every chimney and chimney-stack which shall be hereafter built, shall be built on foundations and footings similar to those of the wall in or adjoining to which such chimney or chimney-stack shall be; and that the brickwork of every flue which shall be hereafter built in a party wall, shall be built from the foundation of such wall of the full thickness required for such flue, so that the brickwork of such flue shall not in any part thereof oversail or overhang any part of such party wall; and that whenever any Two or more flues shall be built in one stack, every such stack shall be built from the foundation to the top thereof without any corbelling over, whereby any upper part of the brickwork of such stack shall overhang any lower part of the brickwork of the same, on the front thereof: Provided nevertheless, That it shall be lawful to build above the ceiling of the third floor of every house and building of the First, Second and Third Rate, and above the ceiling of the second floor of every house and building of the Fourth and Fifth Rates, the jambs, breast and flue of any single chimney upon brick, stone or iron corbels, provided the projection of such jambs and breast shall not

Chimney Stacks not to be corbelled over;

but Single Flues may be on Corbels in the Upper Floors.

not exceed Nine Inches before the face of the wall or stack to which the same shall adjoin.

58. Materials of Flues and Chimneys.

And be it Enacted, That the breast of every chimney, and the front, back, with or partition of every flue which shall be hereafter built, shall be built at least Four Inches thick, of good, sound bricks, properly bonded, and the joints of the work filled in with good mortar or cement, and all the insides thereof, and also the outside or face thereof next the interior of any building, rendered or pargetted.

59. No Timber to be placed over any Chimney. Arches and Iron Bars. No Wood-work to be fixed to Breast.

And be it Enacted, That the jambs of every chimney opening which shall be hereafter built, shall not be less than Eight Inches and a Half wide on each side of such opening, and that no timber whatever shall be placed over any such opening, for supporting the breast thereof, but there shall be an arch of brick or stone and an iron bar or bars over the opening of every such chimney to support the breast thereof, such bars to be built into the jambs at least Four Inches on each side, and no timber or wood-work whatever shall be laid against or fixed in a wall nearer than Nine Inches to the opening of any chimney, nor to the inside of any flue, and no timber or wood-work whatever shall hereafter at any time be affixed to the front of any jamb or mantle, or to the front or back of any chimney or flue, except such timber or wood-work be affixed by iron nails or holdfasts or other iron fastenings, such iron nails, iron holdfasts or other iron fastenings not to lie or be driven nearer than Four Inches to the opening of any chimney or flue.

60. Chimney openings to have Slabs and Trimmers.

And be it Enacted, That every chimney which shall be hereafter built, shall have a slab or slabs of brick, tile, stone, slate, marble or iron laid before the opening, and at least Eighteen Inches longer than such opening when finished, and Eighteen Inches in front of the arch over the same; and such slab or slabs shall be laid wholly on brick, stone or iron trimmers, of at least the same breadth and length, except in a lowest or first floor, where they may be laid on a brick fender, or bedded on the solid ground.

61. Backs of Chimneys.

And be it Enacted, That the back of every chimney opening which shall be hereafter built in any house or building shall be in the lowest or first floor at least Thirteen Inches thick from the hearth to the height of Eighteen Inches above the mantle, and shall be at least Eight Inches and a Half thick in every other floor; nevertheless, in the lowest or first floor of buildings of the Fourth, Fifth and Sixth Rate, the backs of such chimney openings may be at the least Eight Inches and a Half thick; and nevertheless, the back of every such chimney opening, not being in a party wall, may be Four Inches

and a Half less than the several thicknesses above described when built against an adjoining wall.

62. Chimneys back to back.

And be it Enacted, That in all chimney openings which shall be hereafter built back to back, the thickness between the same shall be at the least of the thickness hereinbefore required for the back of one chimney opening.

63. Construction of Flues as to angle.

Iron Soot Doors.

And be it Enacted, That no flue shall be hereafter built with any angle which shall be less than One hundred and Thirty-five Degrees, unless the same be provided with proper openings not less than Nine Inches square, and proper close iron doors and frames inserted in such openings, whereby such flue may be swept by machinery; and every salient or projecting angle within such flue shall be rounded off Four Inches at the least, and shall be protected by a rounded bar of stone or iron.

64. No Oven or Furnace to be fixed within One Foot of a Party Wall, nor Two Feet of Timber, and Floor to be paved Two Feet all round.

And be it Enacted, That it shall not be lawful to build or fix any oven, furnace, cokel or close fire for the purposes of trade or manufacture, within a distance of Six Inches of any party wall, nor upon nor within a distance of Two Feet of any timber or wood-work; and the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, shall be formed and paved under and for a distance of Two Feet all round the same with stone, brick, tile or slate, at least Two Inches thick.

65. No Flue to be less than Three Feet above Roof.

No Flue to exceed Ten Feet without District Surveyor.

And be it Enacted, That every chimney shaft or flue already built which shall be raised or repaired, and every chimney shaft or flue which shall be hereafter built, shall be carried up in brick or stone-work at least Four Inches thick, to a height of not less than Three Feet above the highest part of such portion of the roof, flat or gutter, as shall adjoin thereto measured at the point of junction; and that no brick or stone-work of any such chimney-shaft or flue shall be built higher than Ten Feet above the slope, flat or gutter of the roof where it adjoins thereto, unless the same shall be secured by iron stays, or be built with and bonded to any other chimney-shaft, to the satisfaction, in both cases, of the Surveyor; excepting always the chimney-shaft for any steam-engine, brewery, distillery or manufactory, which may be erected of any height without iron stays, provided such chimney-shaft shall be of such additional strength and dimensions, and be built in such manner as shall be satisfactory to the Official Referees.

66. No Pots or Tubes to exceed Six Feet,

And be it Enacted, That no earthen or metal chimney-pot, tube, funnel or cowl of any description whatever, shall be fixed, the top of which shall be higher than Six Feet above the brick or stone-work

work of the flue on which the same shall be placed, unless the same shall be fixed to the satisfaction of the Surveyor, and shall be let down and fixed at least Two Feet into the brick or stone-work of the flue on which the same shall be placed.

and to be let Two Feet into the Flue.

67.
No Funnel for Smoke next Street.

And be it Enacted, That no metal or other pipe or funnel for conveying smoke or steam shall at any time hereafter be fixed against or in front of any face of any house or building in any street or alley, nor on the inside of any house or building, nearer than Fourteen Inches to any timber or other combustible material whatever.

68.
Owner to build Chimney Breasts, &c., in new Party Wall, for adjoining vacant Ground.

And be it Enacted, That when the owner or occupier of any piece of vacant ground shall have obtained the consent of the owner or occupier of the adjoining ground to the building of a party wall as herein directed, he shall give Ten Days notice at the least to the owner or occupier of such adjoining ground, previously to beginning to build such party wall; and on receiving instructions in due time in writing, or by a plan from the owner or occupier of such adjoining ground, he shall construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party wall as shall be by such instructions required; and shall also leave such recesses in every such wall as may be so required, provided the same accord with the directions hereinafter contained for building party walls and chimneys: And provided always, That the person building such party wall and chimneys shall be entitled to recover from the owner or occupier of such adjacent ground all expenses of constructing any such chimney-jambs, breasts and flues of chimneys and recesses in any such party wall, for the benefit of such owner or occupier, in the like manner and with and subject to the like powers and remedies as are hereafter provided for the recovering of the expenses of constructing party walls.

69.
Chimneys not to be cut into.

And be it Enacted, That no chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, shall be cut into for any other purpose than for the repair thereof, or than for the formation of soot-doors, or for letting in, removing or altering stove-pipes or smoke-jacks, except in the case herein directed for cutting away such portion of the breasts and chimney-shafts of an old sound party wall, as may be required for the purpose of building an external wall against the same.

70.
Directions as to Party Wall.

And be it Enacted, That every party wall which shall hereafter be built for any house or building of the Second, Third or Fourth Rate, shall be built upon a footing, the width of which shall be at the least Nine Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be

at the least One Foot and at the least of Four courses of bricks or stone, laid in Two double courses, diminishing equally on each side at the most Four Inches to the top thereof, except where stone landings shall be used; and the top of such footing shall be at the least Three Inches below the surface of the lowest ground or area adjoining thereto, and at the least Nine Inches below the surface of the lowest floor of such house or building adjoining or intended to adjoin thereto; and every such party wall which shall be built for any house or building of the Second or Third Rate, from the top of such footing to the underside of the second floor, shall be at the least of the thickness of One Foot Ten Inches and a Half, and from thence up to the top of such party wall shall be at the least of the thickness of One Foot Five Inches; and every such party wall which shall be built for any house or building of the Fourth Rate, from the top of such footing to the underside of the fourth floor, shall be at the least of the thickness of One Foot Five Inches, and from thence up to the top of such party wall shall be at the least of the thickness of Thirteen Inches.

71. Party Wall of Fifth and Sixth Rates.

And be it Enacted, That every party wall which shall hereafter be built for any house or building of the Fifth and Sixth Rates shall be built upon a footing, the width of which shall be at the least Nine Inches more than the wall is thick immediately above the same, and the height of which above the foundation shall be at the least Nine Inches, and at the least of Three courses of bricks or stone laid in One double and One single course, diminishing equally on each side at the most Four Inches to the top thereof, except stone landings shall be used, and the top of such footing shall be at the least Six Inches below the surface of the lowest ground or area adjoining thereto, and at least Twelve Inches below the surface of the lowest or first floor of such house or building, or of any house or building adjoining or intended to adjoin thereto; and every such party wall from the top of such footing to the top of such party wall shall be at the least of the thickness of Thirteen Inches, except in a warehouse of the Fifth Rate, where the same shall be at the least of the thickness of One Foot and Five Inches up to the ceiling of the lowest or first floor.

72. Heights of Party Walls above Roofs.

And be it Enacted, That every party wall which shall hereafter be built for any house or building, and every addition or enlargement of every such party wall, or of every party wall already built, shall be carried up and remain One Foot Six Inches at the least above any roof which shall gable against or adjoin to such party wall, measuring from where they adjoin, or from and at a right angle with the back of the rafters of such roof, and Two Feet at the least above any gutter adjoining to any such party wall; and in case any turret, dormer, lantern, light or other erection is or shall be fixed in or upon the

Heights of Party Walls above Dormers, &c.

the flat or roof of any house or building within Five Feet of any party wall, then every such party wall shall be carried up against every such turret, dormer, lantern, light or other erection, and shall extend One Foot Six Inches higher and One Foot Six Inches wider than any such erection.

73. Materials of Party Walls.

And be it Enacted, That every party wall which shall hereafter be built for any house or building shall be built solid, of good, sound bricks, or good, sound stone, properly bonded, and set in good and well-compounded mortar or cement, except flues, iron-work, the ends of girders, of bresummers, of trimming joists, of principal timbers of roofs, of heads and sills of partitions, and except sides of story posts, not exceeding Fourteen Feet high above the pavement of the street in front thereof, and no ends of such timbers nor sides of such story posts shall be fixed nearer than Four Inches to the centre of such party wall; but the ends of such timbers may be carried on iron shoes or stone corbels built into the wall at least Two-thirds of the thickness of such wall; and every such party wall shall be finished at top with One course of sound stock bricks set on edge with good cement, or a coping of any other waterproof covering, and not with wood.

74. All Houses and Buildings to be separated by Party Walls.

And be it Enacted, That every house or building which shall be hereafter built adjoining to any other house or building, and any part of every house or building which shall be hereafter built adjoining to any part of any other house or building, shall be divided from such other house or building and every part thereof by a party wall; (that is to say)

Every party wall between two houses of the same rate shall be built One-half on the ground of one owner, or appertaining or belonging to one of such houses or buildings, and One-half on the ground of the other owner, or appertaining or belonging to the other of such houses or buildings:

And every party wall between houses of different rates shall be built, so much thereof as shall be required for the building of the higher rate, on the ground of the owner of such building, and so much thereof as shall be required for the building of the lower rate, on the ground of the owner of such building of the lower rate:

And in case the house or building of the lower rate shall thereafter be enlarged or altered so as to become a house or building of a higher rate, then the owner of such house or building for the time being shall pay to the owner of the house or building of the higher rate such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party wall which, according to the rate of the house or building enlarged, ought to have been built by the owner of such last-mentioned house or building; and if there be any question as to the quantity of such ground so occupied,

or the value thereof, the sum shall be determined, on the request of any one of the parties interested, by the Official Referee, whose decision shall be final ; and for preventing any future question in such matter, it shall be lawful for the owner to whom such compensation shall be due, and he is hereby entitled to require the Official Referees to certify that such ground doth belong to such owner ; and the receipt of the owner to whom such compensation shall be paid, subscribed to or indorsed upon such certificate and duly attested by Two Witnesses, shall be a sufficient discharge to such owner by whom such compensation shall be paid.

75. Party Walls next vacant Ground.

And be it Enacted, That before the owner or occupier of any piece of vacant ground, or ground not hitherto built upon, shall build any house or building adjoining to another piece of vacant ground, or ground not hitherto built upon, or build a fence wall for such piece of ground, he shall give to the owner or occupier of such adjoining vacant ground a notice in writing One Month at least before commencing to build, and also shall state in such notice his desire to build a party wall or party fence wall, describing therein the thicknesses and dimensions of such desired party wall or party fence wall ; and if the owner or occupier of such adjoining vacant ground shall signify his consent in writing to the building of such party wall or party fence wall, then the same shall be built partly on the ground of one of the said owners or occupiers and partly on the ground of the other owner or occupier, which last-mentioned part shall be paid for as is hereinafter directed by such other owner or occupier ; but if he shall not signify in writing his consent to the building of such party wall or party fence wall, then the owner or occupier desirous to build, shall build an external wall for such house or building, and fence wall for such ground, entirely upon his own ground, in manner herein directed for external walls and fence walls.

76. Party Walls, Party Arches, &c. between intermixed Properties.

And be it Enacted, That when any houses or buildings already built, having rooms or floors the property of different owners, which lie intermixed without being separated by any party wall or party arch, or stone floor, shall be rebuilt altogether, or in any part rebuilt, to the extent of One-fourth of the cubical contents of such houses or buildings ; such intermixed properties, where they adjoin vertically, shall be separated from each other by a party wall, and where they adjoin horizontally, shall be separated from each other by a floor formed of iron girders and brick arches or stone landings, or by a party arch or party arches of brick or stone of the thickness of Nine Inches, at the least, if the span shall not exceed Nine Feet, and Thirteen Inches at the least if the span exceed Nine Feet ; and such floor or party arch or party arches shall be built with such abutments and in such manner as shall be approved of by the Surveyor.

And

77. Houses or Buildings over Public Ways.

And be it Enacted, That when such part of any house or building as extends over any public way shall be rebuilt, the same shall be separated from such public way by a floor formed of iron girders and brick arches, or stone landings, or by an arch formed of brick or stone of the thickness of Nine Inches at the least if the span shall not exceed Nine Feet, and Thirteen Inches at the least if the span exceed Nine Feet, and such floor or arch with its abutments shall be built in such manner as shall be approved of by the Surveyor; and in no case shall there be formed over any public way a ceiling of lath and plaster, or of lath and cement.

78. Recesses which may be left or cut in Party Walls.

And be it Enacted, That no recess or cavity shall be left in any party wall or party arch, or in any addition to or enlargement thereof, which shall hereafter be built for any house or building, so as to reduce such wall or arch in any part thereof to a less thickness than is herein directed for party walls or party arches; nevertheless with regard to any party wall, chases not more than Nine Inches wide may be left not nearer to the centre of the wall than Four Inches, nor nearer to each other than Seven Feet Six Inches on the same side of the wall, nor nearer to the outer face of any front or back wall than Nine Inches, for the insertion of ends of walls, of piers, of chimney jambs, of withs, of flues, of metal pipes, of iron story posts, of templates, of landings, of stone steps, of corbels, of iron shoes, of ends of girders, of ends of bresummers, of ends of trimming joists, of heads and sills of partitions, and of ends of principal timbers of roofs; and further, any party wall or party arch may be cut into to any extent for the repair thereof, but for no other purpose, except, as regards party walls, chases of the above-mentioned dimensions may be cut into them, at the above-mentioned distances, for the above-mentioned purposes.

79. No openings for Windows, &c. to be made in external Walls abutting on other Ground. If made, the adjoining Owner may stop them up.

And be it Enacted, That no opening shall be made for the purposes of light or otherwise, in any external wall of any house or building which shall abut upon the ground of any other owner; and if any such opening shall be made in any such external wall without the consent of the owner of the adjoining ground, house or building, then it shall be lawful for such owner to require in writing that the same shall be stopped up with brickwork, and if the same shall not be done within One Month after such notice, then it shall be lawful for such owner, by himself or his workmen to cause such opening so to be stopped, and to recover the costs thereof (such costs to be settled by the Official Referees, by their certificate) from the owner or occupier, in manner hereinafter provided for the recovery of the costs, charges and expenses of executing any works in pursuance of this Act.

80. Old sound Party Walls not to be condemned for insufficient thickness or height.

And be it Enacted, with regard to old party walls already built, which may be of less thickness or height than the party walls required by this Act, That if such party walls be sound, then they shall

shall not be condemned for mere insufficiency of thickness or height; but when either of the houses or buildings to which such party wall belongs shall be rebuilt, the owner of the house or building so to be rebuilt, shall build an external wall against such party wall; nevertheless if the owner of one of the adjoining houses desire to rebuild such party wall, then he may do so at his own costs and charges, provided that he pay all costs and charges of making good the internal finishings, and also all other expenses incidental to the execution of the work, including therein the expenses of the Survey and the fees of the Surveyor and of the Official Referees: Provided always, That before the owner begin such work, he shall give Six Months' notice to the owner of the adjoining house or building of his intention to pull down and rebuild such party wall.

81. Owner to give One Month's notice.

And be it Enacted, That whenever the owner of any house or building shall build an external wall against an old sound party wall, he may for that purpose cut off the footings of such party wall on the side next the wall so to be built; and the owner of such house or building shall give One Month's notice in writing to the owner or occupier of the adjoining house or building of his intention to rebuild his house or building, and to build a wall against such party wall, and of his desire to cut away such portion of the footings, and of the breasts and chimney-shafts belonging to the house or building about to be rebuilt, as shall project beyond the perpendicular face of such party wall in the lowest floor thereof; and from and after the expiration of such notice it shall be lawful for the owner of the house or building to be rebuilt, to cut away such portion of the footings, breasts and chimney-shafts aforesaid, provided the same be done, and the brickwork where cut be made good again in cement, under the superintendence and to the satisfaction of the Surveyor; and in case such party wall shall be so damaged and injured by such cutting away, as in the opinion of the Surveyor or of the owner or occupier of either of the houses or buildings adjoining thereto, to be ruinous or dangerous, then the same shall be surveyed by the Official Referees, and if condemned shall be pulled down and rebuilt as a party wall, in manner herein directed with respect to the condemning ruinous and defective party walls; but if such damage or injury shall have been occasioned, in the opinion of the Official Referees, by the neglect of, or the want of proper care by the owner or occupier of the house to be rebuilt, then and in such case all the costs and expenses attendant on such survey, and on the pulling down and rebuilding of such party wall, and on the reinstating and making good all the internal finishing and decorations damaged thereby, shall be borne and paid by such owner or occupier; and if such owner or occupier shall not proceed with all due despatch to pull down and rebuild such party wall, and to reinstate and make good all the internal finishings and decorations, and to pay the costs and charges and expenses of the survey,

After One Month, to cut away Chimney Breasts, &c.

If damaged, then to be condemned.

If wilful, then to be paid for by first Owner;

but second Owner may pull down if delayed.

survey, then it shall be lawful for the owner or occupier of the adjoining house or building to do so, and to recover all the costs and expenses arising therefrom, from such owner or occupier, his heirs, executors, administrators or assigns, in manner hereinafter directed for recovering the expenses of party walls.

82. In case of future rebuilding of adjoining House.

And be it Enacted, That when any house or building shall have been rebuilt with an external wall against a party wall which shall not have been found ruinous and decayed, and shall not have been condemned for insufficiency of thickness or height, such wall shall be deemed to remain as a party wall until the adjoining house or building shall be pulled down or rebuilt (if such party wall shall so long continue sound), and when such party wall shall be pulled down, the owner of such adjoining house shall not be entitled to more than his just proportion of the materials thereof, nor to more than his just proportion of the ground on which such party wall was built, nor shall he build on more than his just proportion of the said ground, unless he shall have agreed with and satisfied the owner of the house or building so previously rebuilt for his half thereof; and in case the said owners cannot agree concerning the division of such materials or ground or the building thereon, or the reimbursement of the party first rebuilding as aforesaid, the price and all matters in difference, including the sale and purchase of the ground in question, shall be settled by a reference to the Official Referees, whose award shall be final.

83. Old Party Walls and Party Arches, when decayed, may be rebuilt at any time, or when one or both Houses are pulled down.

And be it Enacted, That when any party wall, party arch or external wall of any house or building used wholly or in part as a party fence wall shall be defective or so far out of repair as to render it necessary to pull down and rebuild the same, or some part or parts thereof, as well when neither of the adjoining houses or buildings may require to be rebuilt, as when one or both of the said houses or buildings may be required to be rebuilt, then any owner or occupier of any house or building, or of any ground adjoining such defective wall, who shall think it necessary to repair, pull down or rebuild the same, or any part thereof, shall, (in case the owner or owners of the adjoining house or building or ground will not, or by reason of any legal disability or otherwise cannot agree touching the repairing or pulling down or rebuilding the same), give Six Weeks' notice in writing to the owner or occupier of such adjoining house or building or ground, of such his intention to repair or pull down such party wall or party arch or external wall, or any part thereof, which notice shall state the fact of such party or external wall or party arch, or some part thereof, being so far out of repair as to render it necessary to repair or pull down and rebuild the same, or some part thereof, and that the party giving such notice desires that the same shall

be referred to arbitration, and for that purpose that the same may be surveyed by any Two Surveyors appointed by the party giving such notice, and by any Two Surveyors appointed by the owner or occupier of such adjoining house; and the said Four Surveyors shall certify the state and condition thereof, and whether the same or any part thereof ought to be repaired or pulled down and rebuilt; and thereupon the owner of such adjoining house shall appoint any Two Surveyors to meet at the time and place mentioned in such notice, and they together with any Two Surveyors named by the party giving such notice, and whose names shall be expressed in such notice, shall view such party wall, party arch or external wall, and certify the state and condition thereof, and whether the same or any part thereof ought to be repaired or pulled down and rebuilt; and such Four Surveyors so respectively named as aforesaid, or in case the owner of such adjoining house shall refuse or neglect to name such Two Surveyors according to such notice, then the Two Surveyors named in such notice, together with Two other Surveyors to be named by the Official Referees on application to them by the party giving such notice as aforesaid, shall, within Ten Days after the time appointed in such notice, view the party wall, party arch or external wall intended to be repaired or pulled down and rebuilt, and shall certify under their hands the state and condition of such party wall, party arch or external wall, and whether the same or any part thereof ought to be repaired or pulled down and rebuilt; and in case the major part of the Surveyors appointed in manner aforesaid shall not, within the space of Three Weeks next after such appointment, sign such certificate in writing, then and in every such case it shall and may be lawful to and for the Official Referees and they are hereby authorized and required, upon application to them for that purpose by the party giving such notice, to name and appoint one of themselves as an umpire, and all the said Surveyors and the umpire shall meet, (Ten Days' notice having been given), and shall view the party wall, party arch or party fence wall so proposed to be repaired or pulled down, and in case, after such meeting, the umpire shall certify under his hand that the party wall, party arch or party fence wall described in such notice or any part thereof, is decayed and ruinous, or is not sufficiently secure against fire, and that the same ought to be repaired or pulled down, then within Three Days next after such certificate a copy thereof shall be delivered to the owner or occupier of such adjoining house or building, and such certificate shall be immediately filed with the Clerk of the Peace, paying such Clerk One Shilling for filing, and no more; and then after the expiration of Fourteen Days from such filing of the certificate (if a period of Six Months shall have elapsed from the date of the original notice, and if not then not till the expiration of such notice), the party intending

to

to repair or pull down and rebuild such party wall, party arch, party fence wall, or any parts thereof, may cause the work to be executed, and shall have and may exercise the like power of entry into or upon the adjoining houses or buildings, and of breaking open the same in the presence of a peace officer, and of removing wainscot, shelves, furniture and other things, and of shoring up the adjoining house, as is given or allowed to the owners of intermixed houses.

84. Timber Partitions to be taken down when one House or one Front, or one-fourth of one Front is taken down;

And be it Enacted, That where any house or building already built shall have a good and sound timber partition between the same and any other house or building, such timber partition may remain until one of the said houses or buildings shall be rebuilt, or shall have one of either of its fronts taken down the height of one floor, or for a space equal to one-fourth of such front from the level of the second floor upwards, or until such timber partition shall be condemned pursuant to the directions herein contained concerning ruinous or defective walls and party partitions; but if the owner of either of the houses or buildings divided by such timber partition shall be desirous to pull down and remove the same, and build a party wall in the place thereof, it shall be lawful for him to do so, provided that he shall give Six Months' previous notice in writing to the owner of the adjoining house or building of his intention to pull down such timber partition, and instead thereof to build a party wall agreeably to this Act; and from and after the end of Six Months from the date of such notice, it shall be lawful for the owner of such house or building to pull down the said timber partition, and the wall under or over the same, if any such there be, and to have and exercise the like power of entry into and upon the said adjoining house or building and ground, or of breaking open the same, in the presence of a peace officer, in case the same be unoccupied or be refused to be opened, and of removing any wainscot, shelves, furniture or other things, and of shoring up the said adjoining house or building as by this Act is given and allowed to the owners of intermixed properties, and shall and may in the place of such timber partition and of the wall under or over the same, if any such there be, build a new party wall of the highest rate of building to which such party wall shall adjoin, and also have and exercise such right of recovering such portion of the cost thereof as is herein directed in respect of party walls.

but may be pulled down whenever either party may wish a Party Wall, on giving Six Months' Notice.

85. Party Fences not to be less than Eight Inches and a Half thick.

And be it Enacted, That no party fence wall hereafter to be built shall be less than Eight Inches and a Half thick; and it shall be lawful for the owner of the ground on either side of a party fence or party fence wall to raise or pull down and rebuild the same at his own proper cost and expense, to any height not exceeding Nine Feet above the ground on either side thereof.

86.

Party Fence Walls not to be used as a Party Wall unless of sufficient thickness; but may be pulled down without Survey, and must be rebuilt as a regular Party Wall by person requiring to make alteration.

Owner of the other side must pay proportion of Expense if he uses it other than Fence Wall.

And be it Enacted, That no party fence wall shall be used as a party wall unless the same shall be built in the manner and of the materials, and of the several heights and thicknesses hereinbefore described for party walls, of the rate of the building to be erected against the same; and in case such wall shall not be so built, or that there shall be only a wooden party fence, then the owner or occupier of either of the adjoining tenements shall be at liberty, at his own expense, to take down such wall or fence and erect a new party wall in lieu thereof, making good every damage that may accrue to the adjoining premises by such rebuilding; but no owner or occupier of such adjoining premises shall make use of such party wall otherwise than as a party fence wall, unless he pay a proportionate share of the whole expense of erecting such parts of such wall, according to the use he shall make of the same.

87.

How ruinous Fences, Party Fences, and Party Fence Walls to be condemned.

And be it Enacted, That every owner or occupier who shall think it necessary for any fence, party fence or party fence wall, or any part thereof adjoining to his ground, or between his ground and the ground of another owner, to be repaired, pulled down, rebuilt or refixed, shall (in case the owner or occupier of such adjoining ground will not, or by reason of any legal disability or otherwise cannot, agree touching the same,) give One Month's notice in writing to the Surveyor and to the owner of such adjoining ground, in manner before provided, of his desire to have such fence, party fence, or party fence wall repaired, pulled down, rebuilt or refixed, by delivering a copy of such notice to such Surveyor as well as to such owner; and every such owner, if he is known and can be met with, or in case such owner be under disability as aforesaid, then such person or persons as aforesaid to whom such notice shall be given, and such Surveyor, shall meet at the time and place appointed in such notice, and shall view such fence, party fence, or party fence wall; and in case the owner of such adjoining ground, or such other persons as aforesaid, having notice as aforesaid, shall refuse or neglect to attend according to such notice, or shall not be known, then the Surveyor, by himself, shall view the said fence, party fence or party fence wall desired to be repaired, pulled down, rebuilt or refixed; and in either case shall certify in writing, under his hand, the state and condition of such fence, party fence or party fence wall, and whether the same or any part thereof ought to be repaired or pulled down, or rebuilt or refixed; and in case the Surveyor shall certify in writing, under his hand, that the fence, party fence or party fence wall described in such notice, or part thereof, is decayed or ruinous, and that the same ought to be repaired or pulled down, rebuilt or refixed, then within Three Days next after such certificate made by such Surveyor as aforesaid, a notice thereof shall be delivered to the owner

or

or occupier of such adjoining ground, or left at his or their last or usual place of abode; and such certificate shall be immediately filed with the Clerk of the Peace; and then and in every such case, and not otherwise, it shall be lawful for the owner or occupier desiring to have such fence, party fence or party fence wall repaired or pulled down, rebuilt or refixed as aforesaid, to cause such fence, party fence or party fence wall, or any part thereof to be repaired or pulled down, or rebuilt or refixed; and that the person authorized by such certificate, his heirs, executors and administrators, servants or workmen, and also his builders and their workmen, shall have and exercise all the like powers within the like period, and sanctioned by the same penalties, and in all respects in the same manner as hereinafter directed concerning intermixed properties after verdict or judgment given.

88. If Party Walls or Party Arches cannot be built on proper foundations by reason of being over Public Ways or intermixed, or if Owners refuse or cannot consent to rebuild intermixed Walls, then Owner desirous to rebuild shall give Fourteen Days' notice of intention to apply to the Official Referees, to obtain Award, and to ascertain Site for new Wall or Arch; if necessary to rebuild, and the Site, and the exchange of Ground if any,

And be it Enacted, That when a party wall or party arch cannot be built upon proper foundations between houses and buildings that are over public ways, or that have rooms or floors, the property of different persons, lying intermixed, without pulling down such houses or buildings and laying parts of each to the others, and that the owner or owners thereof or some or one of them will not (or cannot, by reason of some legal disability or otherwise,) join in building a proper party wall or party arch, or in pulling down such houses and laying parts of each to the other, or in case differences shall arise amongst them so that the rebuilding the same, and of the party wall or party arch thereof, be thereby prevented and delayed to the injury or inconvenience of such owner or owners as are desirous of rebuilding; then such owner or owners as shall be desirous of rebuilding such house or other building shall give notice in writing to the owner of such adjoining house or other building, or of the other parts of such intermixed house or building, that the person so intending to rebuild will apply to the Official Referees, in order to obtain their award touching the rebuilding such house or houses or other buildings, or such party wall or party arch to be described in such notice, and for ascertaining the site of a party wall or the situation of any party arch to be built according to the directions and restrictions in this Act contained; and in every case it shall and may be lawful for the said Official Referees, and they shall inquire and determine whether the premises in any of the cases aforesaid ought to be rebuilt or not, and if the same ought to be rebuilt, shall determine the site of a party wall, and also what party arches may be necessary over or under any rooms of such house or houses or other buildings so intended to be rebuilt, or shall ascertain the quantity of the soil or ground, or other parts of the premises (if any) necessary to be laid to or taken from the house of the person or persons desirous to rebuild, permitting such person or persons to erect a party wall or party arch; and shall ascertain what (if any)

and the Compensation to either party as to Ground, or as to Injury;

and proportion of Expense;

to award Costs if reasonable.

Award to be conclusive;

and same may be Evidence.

Fourteen Days after Award Owner of intermixed House may pull it down after tender of Compensation, if any, awarded;

and may enter;

in the daytime;

and may break open door and remove Goods;

and Builders and others may continue to work at all

any) compensation should be made and paid by either or any of the said owners in difference to the other or others of them in lieu of the lessening either of the said buildings by such party wall or party arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby, to any of the said parties; and shall also ascertain what proportion of the expense of building such party wall or party arch shall, when the same are so built, be repaid by either or any of the parties in difference to the person so rebuilding as aforesaid; and the said Official Referees shall and may (if they see fit) award to either of the parties such costs as they shall deem reasonable; which award, in writing, shall be binding and conclusive against all and every person and persons, bodies politic and corporate, including the Queen's Majesty, Her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises, or any part thereof, either in possession, reversion, remainder or expectancy, and against all other persons whomsoever; and a copy of such award, under the hands of the said referees shall be delivered to any party requiring it, paying therefor; and such copy of such award shall and may be taken and read as evidence in all courts of law and equity whatever; and after the expiration of Fourteen Days from and after the obtaining such award, and payment or tender, in manner hereinafter directed, of the sum or sums of money (if any) thereby assessed or awarded, or where no such sum of money shall be so assessed or awarded, after the expiration of Fourteen Days from and after the obtaining such award, the person who shall have applied for and obtained such award, his heirs, executors or administrators, servants or workmen, shall and may pull down his own house or other building and rebuild the same in the manner so ascertained by such award (except as hereinafter provided), and to that end shall and may, in the presence of a constable or headborough, or other officer of the peace, enter upon the site of the ground so ascertained for a party wall or party arch, and into the building (if any be) adjoining to the building or party wall or party arch intended to be rebuilt, at any time between the hours of Six in the morning and Seven in the afternoon (Sundays excepted); and if the outer door of such house or building be shut, and the person therein refuse to open the same, being thereunto required, or if such house or other building be empty and unoccupied, shall and may break open such outer door and remove to some other part of the same premises, or in case there be no room on the premises sufficient for that purpose, may remove to any other place any goods, furniture or other thing obstructing the building of such intended party wall or party arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party wall or party arch; and from and after such entry as aforesaid, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party wall or

party

party arch, and his servants and all others employed by him, to enter into and upon the premises and abide therein the usual times of working for the shoring up of the said house or other building so broke into and entered upon, and for taking down and removing any party wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, and to build such intended party wall or party arch; and if any such owner or occupier or other person shall in any manner hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, every such person so offending shall for every such offence forfeit and pay not exceeding the sum of Ten Pounds, to be levied, recovered and applied as the several penalties of Ten Pounds hereinafter mentioned are directed to be levied, recovered and applied: Provided, That nothing herein contained shall render it lawful for the owner desirous of rebuilding, to commence such pulling down and rebuilding, or to enter into or upon the other house or adjoining building for that purpose, without the consent of the owner thereof, until the expiration of Six calendar Months after the date of the first notice, or before the expiration of Fourteen Days from the dates of such award: Provided nevertheless, That the last-mentioned clause or provision relating to houses and buildings in part over public ways, or having the rooms or floors the property of different persons, shall not extend to all or any of the rooms or chambers in Serjeants' Inn in Chancery-lane, or in any of the Four Inns of Court, or to any of the Inns of Chancery, or any other Inns set apart for the study or practice of the law, except the walls or divisions between the several rooms and chambers in such Inns, belonging to and communicating with each separate and distinct staircase, shall be deemed to be party walls within this Act, and shall be subject to all and every the regulations and clauses herein contained relating to party walls.

usual working hours;

and persons hindering Workmen to forfeit 10*l.*;

but Building is not to commence till Six Months after first Notice.

Party walls not to extend to Inns of Court, &c.

89.

Buildings already built may be raised when the Walls are in conformity to this Act, and One Story.

And be it Enacted, That it shall be lawful to raise any house or building, provided the party and external walls and chimneys thereof when so raised shall be of the materials, and of the several heights and thicknesses hereinbefore described for party and external walls and chimneys of the Rate such house or building shall be of when so raised; nevertheless it shall be lawful to raise for a height, not exceeding Ten Feet, any house or building already built, provided the party and all other walls of such house or building shall be, in the opinion of the Surveyor, of sufficient strength to allow of such raising.

90.

The Owner, who raises any House to carry up at his own expense the Walls and

And be it Enacted, That if any house or building shall be raised, the owner of such house or building shall build up, at his own expense, the party walls between his own and any adjoining house or building, and all flues and chimney stacks belonging thereto; but if the owner

Chimney Stacks; but if adjoining Owner uses any portion of the raised Wall, he is to pay for such portion, but to have the use of the Flues without being liable for any Cost.

of any such adjoining house or building shall at any time make use of any portion of the part raised of such party wall, he shall repay to the owner who built the same, the cost of the portion he shall so use, together with such parts of the chimney stacks as belong thereto: Provided nevertheless, That the owner of any such adjoining house or building shall have the full use of all the flues raised which he had before, without being liable for any portion of the cost of raising such party wall, flues and chimney stacks.

91. If Ground be excavated against a Wall, the same to be underpinned at cost of Owner so excavating.

And be it Enacted, That if the owner or occupier of any ground, house or building shall excavate or dig out the ground adjoining to or against any wall, whether of a house or building or otherwise, or against any part thereof, deeper than the foundation of such wall, then the owner or occupier who shall excavate such ground shall, at his own costs, shore up and underpin such wall or such part thereof, for its full thickness and to the full depth of such excavation, with good sound stock bricks and tiles, or slates bedded in cement, such underpinning to be done in a workmanlike and substantial manner, and to the satisfaction of the Surveyor.

92. Owners intending to pull down to give One Month's notice to his next neighbours.

And be it Enacted, That with regard to any house or building separated from another by a party wall which shall not be ruinous and defective, before the owner or occupier thereof shall pull down the same, he shall give One Month's notice in writing of such his intention to the owner or occupier of the other house or building.

93. When any Building is ruinous, to be surveyed by District Surveyor, and by the Official Referees; and on Certificate, the Mayor or Overseers to put up a Hoard.

And be it Enacted, That if any house, building or wall, or any part thereof, shall be in a ruinous condition, so as to endanger the lives and limbs of the inhabitants thereof, or the passengers, it shall be the duty of the Surveyor and of the Overseers for the time being of the parish or place in which the same shall be, and he and they are hereby respectively required to apply forthwith to the Official Referees to make a survey of such house, building or wall; and if upon such survey it shall be certified by the Official Referees, that the said house, building or wall is in a ruinous condition and dangerous, it shall be lawful for the Court of Mayor and Aldermen in respect of any such house, building or wall within the city of London and the liberties thereof, or for the Overseers of the poor for the time being of the parish or place in which such house, building or wall shall be situated, not being in the city of London or the liberties thereof; and the said Court and every such Overseer of the Poor is and are hereby required, on notice of any such certificate being made, and a copy thereof being laid before them or him respectively, to cause with all convenient speed a proper and sufficient hoard to be put up for the safety of all passengers, and to cause notice in writing to be given to the owner or occupier thereof, to repair or pull down such house, building or wall, or any part thereof, as the case may require, within Fourteen

Give Notice to repair or pull down in Fourteen Days.

Fourteen Days then next ensuing; and if such owner or occupier of any such house, building or wall shall not begin to repair or pull down the same or such part thereof within the said Fourteen Days after such notice so given or affixed as aforesaid, and complete such repairs or pulling down as soon as the nature of the case will admit, then on oath being made before the said Mayor or a Justice of the Peace for the said city, county or liberty wherein the said ruinous house or building shall be situate, of such notice having been so given, which oath every of them the said Mayor and Justices is hereby empowered and required to administer, the said Court of Mayor and Aldermen, by and out of the cash in the Chamber of London, as regards property within the City of London, and the deputies thereof, and also every such Overseer of the Poor, as regards all other places, by and out of the money in his hands, are hereby severally authorized and required, with all convenient speed, to order and cause such house, building or wall, or such part thereof so certified to be in a ruinous condition and dangerous, as the said Court or the said Overseers of the Poor find necessary for the safety of the passengers, to be repaired, or pulled down or secured, in such manner as shall from time to time be requisite; and to sell and dispose of such of the materials as the said Court of Mayor and Aldermen, or the said Overseers of the Poor, shall judge necessary, and out of the monies arising from the sale thereof to reimburse, repay and satisfy to themselves, to the Surveyors and Official Referees, and to every other person by them respectively employed for the purposes aforesaid, all the charges of the survey and of putting up every such hoard, and of repairing, pulling down and securing as aforesaid, and of selling the said materials as aforesaid, or so much thereof as the monies arising by such sale will extend to pay, and shall account for and pay the surplus of the monies arising by such sale (if any) to the owner of every such house, building or wall, upon demand thereof made by such owner; and if no such demand made, then such overplus shall, as regards places within the city of London and the liberties thereof, be paid to the Chamberlain of the City; and as regards all other places, the same shall be added to the monies raised and collected by virtue of the rates made for the relief of the poor of the said parish, and accounted for as such: Provided nevertheless, That any such owner, his executors or administrators, shall and may, at any time or times within the term of Six Years then afterwards, be entitled to have and receive such overplus; and every Overseer, as regards places not within the said city or liberties thereof, is hereby required to pay the same accordingly out of any monies raised or to be raised by any rate or rates for the relief of the poor; and, if the monies arising from such sale shall be insufficient to repay all such fees and charges, then such deficiency shall from time to time be paid by the owner of every such house or building, if known; and if such owner, on demand thereof, neglect or refuse to pay the same, then such deficiency

After Fourteen Days, on oath of Certificate being made, the Mayor or Overseers may order the work to be done.

To be paid for out of City Funds or Poor's Rate.

Old Materials to be sold to pay Costs.

Surplus, if any, to be paid to Owner on demand.

Other Overseers empowered to refund within Six Years.

If a deficiency, to be paid by Owner,

ciency may be levied by warrant under the hand and seal of the Mayor of the said city of London for the time being, if such ruinous building in question shall be within the city of London or the liberties thereof, or under the hands and seals of Two or more Justices of the Peace, by distress and sale of the goods and chattels of such owner, if any such can be found; and if no such owner can be met with, or being met with shall not on demand pay the said deficiency, and no sufficient distress of his, her or their goods and chattels can be found, then the person who shall at any time thereafter occupy any such house or building, or the ground where the same stood, is hereby required and authorized to pay and deduct the same out of the rent thereof, and if he neglect or refuse to pay such deficiency of charges, then the same shall, by warrant under the hand and seal of the said Mayor of the said city, or under the hands and seals of Two or more such Justices of the Peace as aforesaid, be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; and all money received or recovered on the account aforesaid, for or in respect of any such house, building or wall or part thereof, within the city of London or the liberties thereof, shall be paid to the Chamberlain of the said city, and be by him from time to time placed to the credit of the cash of the said city of London, and all money on account aforesaid, from time to time received or recovered for or in respect of any such house, building or wall or part thereof, in any part of the limits aforesaid, other than the said city of London and the liberties thereof, shall be paid to the Overseers of the Poor for the time being of the parish where the same shall be situated, and shall be placed to the account of the said parish, in aid of such or a like rate or fund out of which the expenses and charges so received or recovered were originally disbursed.

or may be levied by Warrant;

by Distress and Sale of Goods;

or Occupier to pay, and deduct from Rent;

or by Distress on Goods, &c. of Occupier.

Money recovered to be paid to the Chamberlain, or to the Overseers.

94. If Chimneys, &c. are ruinous, &c., District Surveyor to give Notice;

And be it Enacted, That if the chimney-shaft, chimney-pot or other thing thereon, or eaves, or parapet, or coping, or slates or tiles on roof, or projection in front of walls of any house or building shall be deemed by the Surveyor to be in imminent danger of falling, it shall be the duty of such Surveyor, and he is hereby required to give notice thereof under his hand to the occupier of such house or building, either personally or by leaving the same at or affixed to some conspicuous part of the said house or building, requiring such occupier, or the owner, if known, and there shall be no occupier, forthwith to take down, repair, rebuild or otherwise secure the same to the satisfaction of such Surveyor; and if such occupier or some other person interested in such house or building shall not begin to take down, repair, rebuild or secure the same within the space of Thirty-six Hours after such notice as aforesaid shall have been given, left or affixed, and complete such taking down, repairing, rebuilding or otherwise securing the same, to the satisfaction of such Surveyor, as soon as the nature of the case will admit, such Surveyor shall give information

after Thirty-six Hours to apply to a Justice,

information thereof to any Justice of the Peace, who shall proceed thereupon to cause such chimney-shaft, chimney-pot, or other thing thereon, or parapet, or coping, or slates or tiles on roof, or projection in front of wall of such house or building as shall be considered by such Surveyor in imminent danger, to be forthwith taken down, repaired, rebuilt or otherwise secured; and in case the occupier, or some other person interested in such house or building, shall not have taken down, repaired, rebuilt or otherwise secured the same within the time limited as aforesaid, the occupier of such house or building, or the owner, if there shall be no occupier, shall forfeit and pay the sum of Five Pounds for every day during which the same shall so remain unrepaired or not sufficiently secured, such penalty to be levied, recovered and applied in the same manner as any other penalty is by this Act directed to be levied, recovered and applied; and the occupier or owner of such house or building shall, over and above the aforesaid penalty, pay the Surveyor's fees and all other costs, charges and expenses attendant upon any such taking down, repairing, rebuilding or otherwise securing such matters and things as aforesaid, and all such Surveyor's fees and other costs, charges and expenses may be recovered and levied in the same manner as such penalty: Provided always, That in all cases in which the occupiers of such house or building shall not by virtue of the lease or other instrument under which he occupies the same, be bound to repair, reinstate or secure such matters or things as aforesaid, such occupier shall have the like right to retain out of the rent payable in respect of the same premises, all such penalties, costs, charges and expenses attendant upon or arising out of the taking down, repairing, rebuilding or otherwise securing the same as hereinafter given.

who shall cause such Chimneys, &c. to be secured.

Occupier to forfeit 5 *l.* every day the danger continues.

Forfeit and Costs and Surveyor's Fees to be recovered like other Penalties.

95.

If an adjoining House be injured by the fall of Chimneys, &c.

And be it Enacted, That if any injury or damage shall at any time be caused to any house or building, or to the internal decorations and furniture therein, by the falling down of any chimney-shaft, chimney-pot, parapet, coping or other thing, from any other house or building, such injury or damage shall be made good at the cost of the owner or occupier of the house or building from which the same shall fall, in like manner as herein directed concerning the reimbursement of the expenses of party walls, provided that the same shall not be any such part of a party wall as shall belong to and be used conjointly by the owners or occupiers of both houses or buildings; and such costs shall be recoverable in the manner hereinafter directed for the recovery of all costs and expenses of executing works in pursuance of this Act.

injury and damage to be compensated,

except a Party Wall,

and Costs recovered.

96.

Owners of Party Walls are to keep their own portion in repair;

And be it Enacted, That every of the owners of every party wall shall keep in substantial repair such portion of such party wall, and of the chimney-stacks, chimney-pots, flues and other things in or attached

if the one neglects, the other, with consent of District Surveyor, may, after Seven Days' notice, repair above his Roof, and recover Costs.

attached thereto as shall belong to him; and in case any of the owners of a party wall shall neglect to keep all such portions as aforesaid in substantial repair, which may be above the roofs of the adjoining house or building, so as to endanger the same, it shall be lawful for the owner or occupier of such adjoining house or building, by and with the consent of the Surveyor, to give Seven Days' notice to repair such portions as shall require repair to the owner or occupier of the other house or building; and if after the expiration of such notice, the person to whom such notice shall be given shall have neglected or refused to repair the same, then the owner of the adjoining house or building so endangered may cause such ruinous parts above the roofs of his house or building to be forthwith pulled down, and rebuilt or repaired, and may recover the expenses thereof, after the correctness of such costs shall have been certified by the said Official Referees in manner aforesaid, in manner herein directed for recovering the expenses of executing works in pursuance of this Act.

97. Persons who have built Party Walls or Party Arches, in all cases

And be it Enacted, That in the following cases, (that is to say),

Whenever any party wall hereafter to be built shall have been built between any house or building, and any other house or building; or,

Whenever any party wall hereafter to be built shall have been built between any house or building, and any vacant ground; or,

Whenever a ruinous and defective party wall shall have been condemned or pulled down and rebuilt, or whenever One or more timber partitions between any house or building and any other house or building shall have been pulled down, and a party wall built in lieu thereof; or,

Whenever any party wall or party arch between intermixed properties shall have been condemned and pulled down, and a new party wall or party arch built in lieu thereof; or,

Whenever any party fence wall of sufficient height and thickness shall be used as a party wall, or whenever any party wall built on the site of a party fence or party fence wall shall be used otherwise than as a party fence wall by the party who shall not have built the same;

entitled to recover expense from adjoining Owners;

Then and in every and each of these cases (and in every other case of reimbursement) the person at whose expense such party wall or party arch shall have been built or rebuilt shall be entitled to be paid and to recover from the owner of any adjoining house, building or ground,

A sum of money equal to One moiety of the value of so much of such party wall or party arch as shall be built in the manner and of the materials, and of the thicknesses herein required for party walls of the Rate of such adjoining house or building, or of so much of such party wall or party arch as such adjoining owner or owners shall at any time make use of,

of, deductions being made, where proper, for the value of old materials;

And also, the value of such chimney jambs, chimney breasts and flues, which shall have been set up in any party wall, by the instructions of the owner of any vacant ground adjoining to the same, if not already paid for;

And also a proportional part of all expenses which shall be necessary for pulling down the old timber partition, or the old party wall or party arch (when the same shall have been condemned), in lieu of which, such party wall or party arch shall be built;

And the whole of the reasonable expenses, including Surveyor's and Referee's fees, where hereby authorized for or in respect of the shoring up such adjoining building to any timber partition which may be pulled down, or to any party wall or party arch which may have been condemned, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition;

And also all such costs (if any) as may have been awarded by the Official Referees as aforesaid, in any of the cases hereby provided for;

and till paid, right of Soil vested in the Builder.

And in the meantime and until such moiety or other proportional part of the expense of building such party wall or party arch, or such other expenses as aforesaid, shall be so paid, the sole property of all such party wall, and of the ground whereon it stands, and of all such party arch, shall be vested entirely in the person or persons at whose expense the same shall have been built: Provided always, That nothing herein contained shall be construed to impair or diminish the obligation hereinbefore imposed upon the owner of any building by whose neglect or default any party wall adjoining to such building, being sound, shall have been damaged and injured in the rebuilding thereof, so as to be condemned as aforesaid, to make good all the expenses attendant on the survey thereof, and on the pulling down and rebuilding of such party wall, and the reinstating all the internal finishings and decorations of the adjoining building which shall become damaged thereby, nor the right of the owner or occupier of such adjoining building, to recover all such expenses from the owner or occupier culpable of such neglect or default, his heirs, executors, administrators and assigns.

98. When a Party Wall is built next vacant ground, Party giving instruction for

And be it Enacted, That whenever a party wall shall have been built between any house or building and any vacant ground, the owner or owners of such vacant ground who shall have consented to the same, or shall have given instructions as hereinbefore directed for

Flues, &c. has taken possession: and Person building such Wall may recover half of Expense within Twenty-one Days after Account delivered. Account to be delivered Twenty-one Days after completion.

the setting up of the chimney jambs, chimney breasts and flues, shall be deemed to have made use of such party wall; and the person or persons at whose expense such party wall, chimney jambs, chimney be asts and flues shall have been built, shall be entitled to be paid and to recover from such owner or owners a proportional part of such expense within Twenty-one Days after demand, or after having left a true account in writing of the expense of building the same as herein directed for condemned party walls and party arches; and such account shall be delivered to such owner or owners within Twenty-one Days after the completion of the building of such party wall.

99. Persons who have pulled down a Timber Partition and built a Party Wall, entitled to recover Expense, and all other reasonable Expenses from adjoining Owner,

And be it Enacted, That whenever one or more timber partitions between one house or building and any other house or building shall have been pulled down and a party wall or party walls built in lieu thereof, it shall be lawful for the person at whose expense any such timber partitions shall have been pulled down and any such party wall shall have been built and he is hereby entitled to be paid and to recover from the owner of the adjoining house or building,

A sum of money equal to a proportional part of the value of so much of such party wall (deducting for old materials) as shall be built in the manner and of the materials and of the thicknesses hereinbefore required for party walls, at the rate of such adjoining house or building, and for the height and breadth of so much thereof as such adjoining owner shall make use of;

And also for a proportional part of all other expenses which shall be necessary for pulling down the old timber partition or partitions; and the whole of all the reasonable expenses for shoring up such adjoining building, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition; and a moiety of the Surveyor's, Official Referees' and other fees.

within Twenty-one Days after delivering Account. Account to be delivered Twenty-one Days after completion.

And that within Twenty-one Days after demand, or after having left a true account in writing of the expense of building and pulling down the same, and of all the other reasonable expenses as aforesaid as hereinafter directed for condemned party walls and party arches; and such account shall be delivered to such owner or owners within Twenty-one Days after the completion of the building of such party wall.

100. Persons who have rebuilt ruinous Party Walls and Party Arches entitled to recover from

And be it Enacted, That whenever any ruinous and defective party wall shall have been condemned, or whenever any party wall or party arch between intermixed properties shall have been condemned, then the person or persons at whose expense such party wall

wall or party arch shall have been rebuilt shall be entitled to be paid and to recover from the owner of the adjoining house or building, adjoining Owner Expense and all other reasonable Expenses,

A sum of money equal to One moiety of the value of so much of such party wall or party arch as shall be built in the manner and of the materials and of the thicknesses hereinbefore required for party walls of the rate of such adjoining house or building, and for the height and breadth of so much thereof as such adjoining owner or owners shall make use of;

And also for a proportional part of all other expenses which shall be necessary for pulling down the old party wall or party arch;

And the whole of all the reasonable expenses for shoring up such adjoining building, and for removing any goods, furniture or other things, and for pulling down any wainscot or partition;

And also for all such costs (if any) as may have been awarded by the Official Referees as aforesaid. and Expense of Condemnation as may be awarded.

And within Twenty-one Days after the completion of the building of such party wall or party arch, or so soon after as conveniently may be, the person or persons at whose expense the same shall have been built shall leave at such adjoining house or building an account in writing containing a true account of the number of rods and parts of rods of brickwork, and of all digging, concrete, stonework and other materials or labour employed in building each party wall or party arch for which the owner or owners of such adjoining house or building or ground shall be liable to pay, and of the deduction which such owner or owners shall be entitled to make therefrom on account of the old materials of the wall or arch or other things pulled down, and also a true account of such other expenses and costs as aforesaid; whereupon the occupier of such adjoining house or building or ground, not being a yearly tenant or tenant at will, shall pay to the person or persons at whose expense the said party wall or party arch shall have been built, One moiety or such proportional part of such as aforesaid for the pulling down and rebuilding, and all the reasonable expenses for shoring up and supporting such adjoining house or building as aforesaid, and for all such other expenses as are hereinbefore directed to be paid by the owner of such adjoining building or ground, and shall deduct the same out of the rent which shall become due from him to such owner under whom he holds the same respectively until he shall be reimbursed the same in proportion as is hereinafter directed. Account to be delivered Twenty-one Days after completion, and Occupier to pay the same, and deduct it from his Rent.

101.

CLAUSE (H.) Manner of recovering Costs, Charges and Expenses incurred in

And be it Enacted, with regard to all costs, charges and expenses hereby imposed on any party, whether primarily or otherwise, or hereby authorized to be incurred by any party on behalf of another party in respect of any work or works to be executed in pursuance

pursuance of this Act.

If not paid in Twenty-one Days after demand, may be recovered, with costs of Action.

If Three Months' notice of Action shall have been given,

Double Costs may be recovered.

of this Act, That in case the same be not paid by the party liable to pay the same, within Twenty-one Days next after demand thereof, then the same shall and may be recovered, together with full costs of suit, of and from such owner by action of debt or on the case in any of Her Majesty's Courts of Record at Westminster, and if the plaintiff in any such action shall, Three calendar Months at the least before the commencement thereof, give notice in writing to the person against whom such action is intended to be brought of his intention to bring the same, or leave the same at his last or usual place of abode, and shall in such notice specify the sum for which it is to be brought, and also annex to such notice a bill of the true particulars of the expenses and charges with which the defendant is to be charged; then such plaintiff, if he recover the full sum specified in such notice, shall also recover and be entitled to double costs of suit, and shall have and be entitled to the like remedies for recovery thereof as are usually given for costs in other cases of costs at law.

102. The Expense of pulling down and building Party Walls, &c.

to be valued by Official Referees;

And be it Enacted, That the expense of building any party wall, or of pulling down and rebuilding any party wall, party arch or timber partition, or of repairing any party wall, and the value of old materials, and all and every other expense for pulling down, building or repairing, which any person shall be entitled under this Act to recover from any other person, shall be estimated and valued at such rates and prices as shall be from time to time fixed by the Official Referees; and until an account approved of by the Official Referees, whose decision as to the particulars of such account shall be final, no action for the recovery of the amount of such account shall be commenced, and if commenced without such previous delivery of such an account so approved, then a verdict shall be given for the defendant.

103. Costs and Expenses of rebuilding Party Walls

to be borne in proportion, by all Parties interested in the Premises;

if they cannot agree as to proportions, to be settled by Official Referees; and the Per-

And be it Enacted, That when the costs and all other expenses of pulling down, securing, repairing and rebuilding party walls, party arches, party fence walls, or other parts of houses or buildings according to the provisions of this Act, shall have been ascertained, and paid by the owner or person upon whom the payment thereof shall have fallen; then it shall be lawful for such owner or person to call upon all other persons interested in the premises, such as freeholders, copyholders, ground landlords, lessors, lessees and the like, but not upon yearly tenants or tenants at will, to contribute a due proportion of such costs and expenses according to the covenants of the several leases or agreements between them, calculated according to both time and amount; and if all the parties so interested cannot, by reason of disability, absence or otherwise, agree among themselves upon an equitable division and arrangement of such costs and expenses, the same shall be settled and determined by the award of the Official Referees

Referees, whose decision shall be final; and the person upon whom the payment of such costs and expenses shall have fallen shall have (against all persons required by the award of such Official Referees to contribute thereto) the like remedies to compel payment of the money and of the costs and charges of such Referees, as are herein given for the recovery of the expenses of works executed in pursuance of this Act.

son who has first paid may recover from all.

104. Occupiers may deduct Charges from Rent.

And be it Enacted, That any occupier of any building who shall pay any costs, charges or expenses for the taking down, repairing, rebuilding and effectually securing any chimney, or roof, or parapet or other wall, or any building or part of any building, or any other costs, charges and expenses which the owner of such building would primarily be liable to pay under the provisions of this Act, or upon whose goods and chattels such costs, charges and expenses may be levied in pursuance of this Act, may deduct the amount of such costs, charges and expenses, and the costs, charges and expenses of any distress and sale, out of the rent due to his landlord or lessor, unless there shall be some express agreement to the contrary between the parties; and the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment, as the case may be, of the rent due to him by such occupier as aforesaid, or otherwise if such occupier shall so desire it, the same shall be repaid to such occupier by such lessor or landlord on demand thereof, and in default of such payment the same may be recovered by such occupier from such lessor or landlord by action or suit in any of Her Majesty's courts of law, unless in any case there shall be an express agreement between the parties to the contrary.

105. Two Days' Notice to be given before beginning to build,

And be it Enacted, That in the following cases (that is to say),

Before any house or building shall be begun to be built, and

Before any addition or alteration shall be made to any house or building, and

Before any party wall, external wall, chimney-stack or flue shall be begun to be built, pulled down, rebuilt, cut into or altered, and

Before any opening shall be made in any party wall, and also

Before any building duly begun in compliance with the provisions of this Act (and the progress thereof shall have been suspended for any period exceeding Three calendar Months) shall be again proceeded with, and also

Whenever the builder or other person employed by any owner or other person in any building, pulling down, alteration or rebuilding, shall be changed during the progress thereof, and

Before any other matter or thing shall be done, which by this Act is placed under the supervision of the District Surveyor,

by Master Builder, or by Person who orders the Work.

Two clear Days' Notice shall be given, and that in writing, at the office of the Surveyor, and such notice shall be signed by the master builder or workman, or other person who shall be or be about to be employed, or shall be about to build, pull down, rebuild, cut into, or alter such building, party wall, external wall, chimney-back or flue, or to go on with such building, pulling down, rebuilding, cutting into or alteration, or by the owner of the building, wall, chimney-back or flue, or of the intended building, wall, chimney-back or flue, or by any other person for whom and by whose order such work shall be done; and such notice shall state in general terms the nature of the work intended to be begun or proceeded with, and the place where the same is done or carried on, or is to be done or carried on; and also the christian and surnames at length, and the usual places of abode of the owner of the property, or other person, by whose order such work shall be done; and of the master builder or workman or other person who shall be employed or shall be intended to be employed therein; and every master builder, workman or other person who shall neglect to give such notice, or who shall begin to build or do any of the things aforesaid, before such notice as aforesaid has been given; and also any person who shall refuse to admit the Surveyor or any other Surveyor or Architect authorized under this Act from time to time and at all reasonable hours to inspect any building in course of construction, demolition, alteration or reconstruction, shall, for every default therein, forfeit and pay to such Surveyor Treble the fees which such Surveyor or Architect would have been entitled to receive for his trouble in inspecting the same, and shall also for every such default forfeit a sum not exceeding Twenty Pounds, to be recovered by any action, in any of Her Majesty's Courts of Record at Westminster, by any person who shall sue for the same; and in case any such house, building, chimney or wall shall have been begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or shall be proceeded with after any suspension of the progress thereof, before such notice as aforesaid shall have been given; or in case such Surveyor or Architect shall have been refused admittance to inspect the same as aforesaid, the same shall be liable to be abated as a nuisance under the provisions herein contained; and that in case any person having duly begun any house or building requiring compliance with the provisions of this Act shall suspend the progress and completion of such building for any period exceeding Three Months, and shall again go on with the same; or in case the builder or other person employed by such owner or other person in such building shall be changed during the progress thereof, notice in writing thereof, and of the name of the person to be employed to go on with such building, shall

In case of neglect, to give Notice;

or refusal to admit District Surveyor,

Master Builder to be fined 20*l.*,

if begun without notice,

or if Surveyor be refused admittance.

In case of suspending Works Three Months;

or in case of change of Builder,

a fresh Notice to be given, on Penalty of 10*l.*

shall be given to the Surveyor, or left at the Surveyor's office, in like manner as is required upon beginning any new building; and every person making default or neglecting to give or leave such notice shall for every offence forfeit and pay a sum not exceeding Ten Pounds, to be recovered as hereinafter mentioned.

106. For preventing neglect or evasion of this Act. Any Person may prosecute.

And be it Enacted, That it shall be lawful for any Surveyor appointed or confirmed by virtue of this Act, and all other persons, to commence and prosecute proceedings for the recovery of any penalty or forfeiture, or for the pulling down or alteration of any house or building, against any owner, occupier, builder, workman or other person, for any default made in complying with the provisions of this Act, at any time within Three Months after such default shall have been made, provided that the person intending to commence such proceedings, if not One of the said Surveyors, shall give notice of his intention at the office of the Surveyor of the district.

107. All Buildings to be according to this Act; and every Building contrary to this Act is declared to be a public nuisance.

And be it Enacted, That every drain, timber building, chimney and flue, party wall, party fence wall, external wall and projection, and every other part of every house or building of every Rate which shall be hereafter built or altered within the limits of this Act, shall be built or altered in the manner and of the materials and in every other respect according to and in conformity with the several rules, regulations and directions which are in this Act particularly specified; and if any person or persons shall build or begin to build, or cause the building or beginning to build, or shall alter or cause to be altered, or use or cause to be used any part of any ground, house or building, projection, drain or other thing contrary thereunto, and it shall so appear by the certificate of the Official Referees aforesaid, then the said house or building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered or so used, shall be deemed a common nuisance, and the builder or workmen, and the owner and the occupier thereof, or any One of them, as the case may be, shall be summoned by the Surveyor before any Two Justices of the Peace, and such one of them as such Justices shall require, shall enter into a recognizance in such sum as the said Justices shall appoint for abating and demolishing the same, within such convenient time as the said Justices shall respectively appoint, or otherwise to amend the same according to such rules and regulations and directions as are herein contained, as well as for the payment of the costs, charges and expenses attending the laying the information and obtaining the conviction; and in default of entering into such recognizance, the person or persons so making default shall be committed to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall

If convicted on the Oath of Two or more credible Witnesses,

Builder, Owner or Occupier to enter into Recognizances to pull down and amend.

have abated or demolished or otherwise amended the same, or until such irregular house or building shall be abated or demolished by order of such Justices respectively (which order the said Justices are hereby empowered to make), and until the costs, charges and expenses aforesaid have been paid.

108. Justices are empowered to pull down Buildings declared Nuisances,

And be it Enacted, That it shall be lawful for any Two or more Justices of the Peace to order every such house or building, or projection or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered as is by this Act declared to be a common nuisance, to be abated or taken down, and to order the person authorized by them to abate or take down the same to sell and dispose of the materials thereof, and out of the monies arising by the sale thereof to pay to themselves and all persons by them employed for the purpose aforesaid, the reasonable charges for abating or taking down such nuisance, and also the costs and expenses attending the laying of the information and of obtaining the conviction thereupon, and to pay the surplus monies arising by such sale (if any) to the owner or owners of such materials, and if the monies arising by such sale be not sufficient to pay such charges, the deficiency shall be made good by such owner, and may be levied in like manner as hereinbefore directed concerning the expense of taking down ruinous buildings and putting up hoards for the safety of passengers.

and to sell the Materials to pay expenses,

and to pay surplus to Owners; and deficiency may be levied for as in ruinous Buildings.

109. Fifty Shillings penalty on Workmen offending.

And be it Enacted, That every workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, who shall wilfully, carelessly or negligently, and without the direction, privity or consent of the person causing such building or wall to be erected, do any thing in or about such building contrary to the directions of this Act, upon conviction thereof before any Two Justices of the Peace, upon the oath of One or more credible witness or witnesses (which oath the said and every such Justice is hereby empowered and required to administer), shall for every such offence forfeit a sum not exceeding Fifty Shillings; and if any such forfeiture be not paid upon and immediately after such conviction, then the offenders shall by warrant under the hand and seal of such Justice be committed to the common gaol for any term not exceeding One Month, at the discretion of such Justices.

110. Appointment of Three Official Referees.

And be it Enacted, That Her Majesty's Principal Secretary of State acting for the Home Department, shall appoint Three persons, being Architects, who shall be termed "Official Referees," for the purpose of determining the questions hereby directed to be referred to them; and the determination of any Two of such Referees shall be binding on all parties in respect of any matters hereby referred to such Referees

Referees; and any question hereby directed to be referred to them may, if the parties interested agree, be referred to any One of such Referees, whose decision shall be binding in all respects; and such persons may be nominated from time to time, and may be removed, as such Principal Secretary for the time being shall think proper.

111. Matters in difference may be referred to Official Referees.

And be it Enacted, That in case any difference shall arise between the Surveyor and any party, or between any parties, or between any Two Surveyors with respect to the district in which any house, building, matter or thing shall be deemed to be situate, especially in cases where such house, building, matter or thing be partly in one district and partly in another, and with respect to any matter or thing done or to be done in pursuance of this Act, or otherwise as to the provisions of this Act, or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect, then if any of the parties interested in the matter shall require it, such point in difference shall be referred to the award of the said Official Referees, and the award of them, or of any Two of them, in writing, on all or any of the points in difference, and in regard to the costs, charges and expenses of such reference, shall be binding on all parties; and as regards such award and every other award to be made by such Referees in pursuance of the directions of this Act, the same shall have the same effect as if the same had been made under an order of reference made by Her Majesty's Court of Queen's Bench at Westminster; and such Referees shall have all such powers, as arbitrators, as they would have had in case they had been appointed under the order of the said Court; and their award shall be enforced by the said Court in all respects as if made under an order of such Court.

112. Clause (I.) Office of Referees.

And be it Enacted, that the said Official Referees shall at their own expense have an office in such central and convenient situation, within the city of London, or the city of Westminster, as shall be approved of by Her Majesty's Principal Secretary of State acting for the Home Department, and in such office shall keep a register of all matters referred to them, and otherwise of all matters which shall come under their cognizance, in pursuance of this Act, and shall keep and preserve all documents connected with their duties as Official Referees; and with regard to all notices required to be given to such Official Referees, every such notice, if left or delivered at the said office, shall, so far as regards the place of service, be deemed to be well served upon them, or either of them, as the case may require.

Notices to Referees.

113. Lord Mayor and Aldermen to appoint Surveyors in the City and Districts.

And be it Enacted, That it shall be lawful for the Lord Mayor and Aldermen of the City of London, with reference to the City of London and the liberties thereof, and the Justices of the Peace for the County of Middlesex, the County of Surrey, the County of Kent, Justices of the

Peace to appoint Surveyors elsewhere.

the City and Liberty of Westminster, and the Liberty of Her Majesty's Tower of London, in their General Quarter Sessions respectively, with reference to their respective counties, and they are hereby required to nominate and appoint, at any time after this Act shall come into operation, subject nevertheless to the consent of Her Majesty's Principal Secretary of State for the Home Department, such and so many discreet persons, of the full age of Thirty Years, properly educated and skilled in the art and practice of building, as they the said Lord Mayor and Aldermen and the said Justices shall think fit to be, during their will and pleausre, the Surveyors, to see all the rules, regulations and directions of this Act well and truly observed in and throughout the said City of London and Liberties thereof, and the said City and Liberty of Westminster, and all the parishes, precincts and places within the limits of this Act, under the jurisdiction of the said Lord Mayor and Aldermen, and of the respective Quarter Sessions by whom such Surveyors shall be so appointed; and it shall be lawful for the said Lord Mayor and Aldermen, and the said Justices of the Peace in their General Quarter Sessions respectively, and they are hereby empowered from time to time, subject to the consent of Her Majesty's Principal Secretary of State for the Home Department, to appoint, unite, enlarge, diminish or alter the several districts which shall be under the charge of such Surveyors respectively; and it shall not be lawful for any person to hold the office of such Surveyors or one of such Deputies as after mentioned until he shall have attained the full age of Thirty Years; nor shall it be lawful for any person to hold the office of a Surveyor, or of Deputy Surveyor for any District, under this Act during the time that he shall act as a Justice of the Peace for the county in which such district shall be situated.

No Person to be appointed under Thirty Years of age. Nor a Justice of the Peace.

114. Present Surveyors to continue in Office till removed.

And be it Enacted, That the Surveyors who at the time of this Act coming into operation shall have been appointed under the said Act of the fourteenth year of the reign of King GEORGE the Third, shall continue to be the Surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, until removed, and in all respects as if they had been appointed under this Act, and the several provisions in this Act applicable to District Surveyors shall apply to them.

115. The Mayor and Aldermen and the Justices to administer to each Surveyor, on his appointment,

And be it Enacted, That it shall be lawful for the said Lord Mayor and Aldermen, in their Court of Aldermen, and for the said Justices of the Peace in their respective General Quarter Sessions, and they are hereby required to administer to each and every one of the said Surveyors, upon his appointment, an oath for the true and impartial execution of his office in that behalf, which oath shall be in the form or to the effect following; (that is to say)

"I,

an Oath for the true and impartial execution of his office.

"I, A. B., being one of the Surveyors appointed in pursuance of an Act of Parliament passed in the
do swear, that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability, endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice to any person whomsoever

"So help me GOD."

116. Surveyor's Office to be in District, and attendance there from Ten to Four o'clock. Address to be left with Clerk of the Peace, Churchwardens and Overseers. Notice Book to be kept, and Notices entered.

And be it Enacted, That every Surveyor for the City of London and the Liberties thereof shall have an office, at his own expense, in such public situation as shall be approved by the Lord Mayor and Aldermen, and that every other Surveyor shall have an office, at his own expense, in some central part of the district to which he shall be appointed, approved of by any Two of the Justices of the Peace, within whose jurisdiction he shall act; and such Surveyor or some person on his behalf, shall be in constant attendance at such office every day (Sundays, Christmas-day and Good Friday excepted), from Ten of the clock in the morning till Four of the clock in the afternoon; and such Surveyor shall leave his name and place of abode, and the place where such office shall be, with the Clerk of the Peace, and with the Overseers of the poor, for every parish and place within his district; and such Surveyor shall cause a book for the entering of such notices, informations and complaints, to be at all times kept at such office, and he shall and is hereby required to enter in such book every notice, information or complaint which shall be delivered or made to him.

117. If Surveyor is ill or unable to attend, Justices of Peace to appoint another pro tem. who shall attend, and take fees.

And be it Enacted, That in case any Surveyor shall be prevented by illness, or any other unavoidable circumstance, from attending to the duties of his office by illness, such Surveyor shall forthwith, by and with the consent and approval of One of the Justices of the Peace having jurisdiction in his district, appoint some other Surveyor as his deputy, to perform all such duties, for so long a time as such prevention shall continue; and such Deputy Surveyor shall thereupon, during such time as aforesaid, perform all the duties of such Surveyor, and in all respects as if he were the Surveyor appointed or confirmed under this Act, and shall be entitled to the like fees; and in case of the death of any Surveyor, the Lord Mayor and Aldermen, or the Justices of the Peace, shall within One Month appoint a successor as herein directed.

118. Clause (K.) District Surveyor to survey Houses to be altered.

And be it Enacted, That all houses and buildings built, rebuilt, enlarged or altered by or under the superintendence of a District Surveyor within his own district, shall be surveyed by another District Surveyor to be appointed by the official Referees for that purpose.

119. If Two Days' Notice has been given,

And be it Enacted, That when Two clear Days at least before any house or building shall be begun to be built, or before any addition or alteration shall be made to any house or building, or before any party wall, external wall, chimney back or flue, shall be begun to be built, pulled down or rebuilt, cut into or altered, or before any opening shall be made in any party wall, or before any other matter or thing shall be done which by this Act shall have been placed under the supervision of the Surveyor, notice thereof shall have been left at the office of any Surveyor as hereinbefore directed; or when, from ignorance or neglect, or from any other circumstance, such notice shall not have been so left, yet the progress of any such work shall have been observed by or made known to the Surveyor, then and in both cases, the Surveyor in whose district such work shall be intended to be done or shall have been commenced shall proceed from time to time to inspect the same, and to cause all the rules, regulations and directions of this Act to be strictly observed, according to the oath taken by him to that effect; and it shall also be the duty of such Surveyor, at all times when it shall be needful, to inspect ruinous, buildings and projections in imminent danger, and to take all such measures thereupon, and to attend to and to perform every thing required of him by this Act, whether with or without notice.

or if Notice has not been given,

the Surveyor is occasionally to inspect,

and cause the Act to be observed;

also, to inspect Projections, &c. without Notice.

120. If any Work shall be done irregularly,

And be it Enacted, That in case the owner, the master builder or workman, or any other person who shall be employed, shall build, pull down, rebuild, cut into or alter any part of any house or building, or party wall or external wall, or chimney back or flue, or any other thing contrary to the rules and directions of this Act, or shall not conform to all such rules and directions, the Surveyor shall forthwith give Forty-eight Hours' notice to the owner or the master builder, to amend any such irregularity which he may apprehend to have been committed; and after the expiration of such notice, such Surveyor shall proceed to inspect the work; and if he shall be refused admittance from time to time, at any reasonable hour, to make such inspection, he is hereby empowered, by and with the aid of a Peace Officer, to enter upon the ground, house, building and premises where the same may be, for that purpose; and if it shall prove that the work is so far advanced that such Surveyor cannot ascertain whether the irregularity has been committed or not, or exists or not, he is hereby empowered to order any work to be cut into, laid open or pulled down, which shall in his opinion prevent his ascertaining whether any such irregularity exists or not; and in case the owner or master builder to whom any such notice shall have been given, shall refuse or omit or neglect to amend any irregular work after Forty-eight Hours, or any owner or master builder, in case he shall refuse when ordered by the Surveyor, to cut into, lay open or pull down any work which shall in his opinion prevent his ascertaining

Surveyor to give Forty-eight Hours' Notice to amend.

Surveyor, after Notice expires, to survey; and if refused admittance, may enter with a Peace Officer.

If work is covered up, Surveyor may order it to be cut into.

If irregularity be not amended,

or if Owner refuse to allow it to be cut into,

ascertaining whether any such irregular work exists or not, such Surveyor shall, as soon as conveniently may be, give information thereof to Two or more Justices of the Peace, who shall proceed thereupon to hear the matter, and if any breach of the rules, regulations and directions of this Act shall be found to have been committed, or if there shall appear good reason to surmise and apprehend any such breach has been committed and is concealed, then the said Justices shall proceed to cause such house, building, party wall, external wall, chimney back, flue or other thing, or such part thereof as they shall deem necessary, to be amended, removed, pulled down, laid open or demolished, in manner hereinbefore directed; and all the costs, charges and expenses of the said work, and of the said application to such Justices, shall be borne by such party or parties as the said Justices shall determine.

Surveyor to inform the Justices.

Justices, in both cases, may order the Work to be amended or pulled down.

121.

Surveyors to be paid Fees according to Table of Fees,

and Treble Fees, if no Notice.

When payable, account to be delivered; when paid, receipt to be given.

No Fee to be paid without receipt.

Fees may be recovered as Poor-rate.

And be it Enacted, That every Surveyor shall be entitled to receive, and shall be paid for his time and trouble and expenses, in causing all the rules, regulations and directions of this Act to be observed, the several fees hereinafter directed; and in case no notice shall have been given as hereinbefore directed, he shall be entitled to receive and shall be paid Three times the amount of such fees; and whenever any fee shall become payable to any Surveyor, he shall deliver an account thereof to the owner or occupier of the house or building, and when such fee shall be paid, he shall give to such owner a receipt, signed with his christian and surname, and stating thereon the amount paid and the work done for which such fee shall have become payable; and no fee shall be paid without such receipt being tendered for the same; but if any owner or occupier who shall become liable to pay any such fee shall refuse to pay the same on tender of such receipt, the same shall be recoverable by application to any Justice of the Peace in whose jurisdiction the house or building shall be, as poor's rates are by law recoverable; and also when no notice shall have been given as hereinbefore directed, Treble the amount of such fees as may be due in the case.

122.

No Fee to be received till the work done is conformable to this Act.

Surveyors to return quarterly to the Clerk of Peace account of all Fees,

signed by him and sworn to,

and such Return to be the Certificate of

And be it Enacted, That it shall not be lawful for any Surveyor to receive any fee unless the work upon which the same shall become payable shall have been done in every respect agreeably to the directions of this Act; and every Surveyor shall, within Fourteen Days after every quarter day in every year, after the First day of January One thousand eight hundred and Forty-four, make a return to the Clerk of the Peace for his district, and to the Official Referees, enumerating therein the number and nature of all the several works executed within the previous quarter under his supervision, and the fees paid to him for the same; and such return shall be signed by such Surveyor; and the correctness thereof shall be sworn to by him before any Two Justices of the Peace; and such return, so sworn to, shall be deemed and taken to be a certificate that

all Works being properly done.

that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief; but such return shall not be any protection from or hindrance of any future proceeding for irregular works according to the provisions of this Act, though the same may have been done before the making of such return; and such return shall be at all reasonable times open for inspection on the payment of One Shilling.

123. If Surveyor shall demand too high a Fee, or be negligent and unfaithful, he shall be fined, under 50*l.*, or discharged forthwith.

And be it Enacted, That if any Surveyor shall receive any higher fee than he shall be entitled to under this Act, or if at any time he shall wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, and if the same shall upon complaint thereof be made to appear to the Mayor and Aldermen of the said City of London, or to the Court of Session having jurisdiction over the district in which he shall act for the time being, such Surveyor shall, by the said Mayor and Aldermen, or by the said Court of Session, as the case may be, be fined such sum of money, not exceeding Fifty Pounds, as they shall think fit, or shall be discharged forthwith from his said office, and shall for ever afterwards be incapable of being again appointed a Surveyor for the purposes of this Act.

124. Surveyor's Fees.

And be it Enacted, That whenever any house or building shall have been built on old or new foundations, the fee payable by the owner thereof to the Surveyor in whose district the same shall be, according to this Act, shall become due and shall be paid within One Month after the roof thereof shall have been covered in, and all the walls thereof shall have been built to their full heights, and the principal timbers of the partitions and floors shall have been fixed in their places; and such Surveyor shall be paid —

	£.	s.	d.
For every Building of the First Rate - - -	5	5	–
„ „ Second „ - - -	3	10	–
„ „ Third „ - - -	3	3	–
„ „ Fourth „ - - -	2	10	–
„ „ Fifth „ - - -	2	2	–
„ „ Sixth „ - - -	1	10	–
For every isolated Building - - - - -	1	1	–
For every detached Building, built for the purposes of trade, or collection of toll - - - - -	–	10	6

And whenever any building of the First Rate, or any public building, shall have been certified, as hereinbefore directed, to have been built in a satisfactory manner, and according to the regulations of this Act, the Surveyor, in whose district the same shall be, and the Official Referees, shall be paid by the owner thereof the several fees following; (that is to say)

	£.	s.	d.
To the Surveyor such fee as is hereby appointed for the rate to which the building may belong.			
To each of the Three Referees - - - -	5	5	–

And

Attached Buildings distinctly rated.

And whenever the offices of any house or building attached thereto shall be distinctly rated, and shall be built according to the regulations for a lower rate of building than such house or building, the fee for such offices shall be paid in addition to the fee for the house or building, and according to the rate to which such attached offices shall belong, unless the same shall be carried up and covered in within Twenty-one Days after such house or building shall have been covered in, within the meaning and operation of this Act.

Additions or alterations.

And whenever any addition or alteration shall be made to any house or building, the fee payable by the owner thereof to the Surveyor, according to this Act, shall become due and shall be paid within Fourteen Days after the completion of all the works connected with such alteration that shall be according to this Act under the supervision of such Surveyor, and such fee shall be payable on every alteration or addition made to any house or building which shall involve the execution of works subject to the regulations of this Act, and the fees payable thereon shall be as follows; (that is to say)

	£.	s.	d.
For every Building of the First Rate - - -	2	10	–
„ „ Second „ - - -	1	15	–
„ „ Third „ - - -	1	10	–
„ „ Fourth „ - - -	1	5	–
„ „ Fifth „ - - -	–	15	–
„ „ Sixth „ - - -	–	10	–

Alteration of Public Buildings.

And whenever any addition or alteration shall be made to any public building, there shall be paid to the Surveyor in whose district the same shall be, and to the Official Referees, such fees as the Secretary of State for the Home Department for the time being shall from time to time appoint, and in proportion to the fees payable for a new public building.

Special Duties.

And whenever any Surveyor shall have been required and shall have performed any special duties according to the enactments herein contained, he shall be paid for the same the several fees hereinafter mentioned, according to the service performed; (that is to say)

	£.	s.	d.
For attending to the cutting away of chimney-breasts for external wall - - - - - - - -	2	2	–
For condemning party fence walls - - - -	1	1	–
For the inspection and removal of projections, &c., in imminent danger - - - - - -	–	10	–

Special services not expressly provided for.

And whenever any service shall be performed by any Surveyor, which is contemplated by this Act, but not included and comprehended under any of the foregoing heads, there shall be paid for such

such service by the person to whom it may be rendered such fee as the Official Referees shall, by writing under their hands, order and appoint; and all such fees as aforesaid, and all the fees for special services hereinbefore enumerated, shall become due and be payable within Fourteen Days after each several service shall have been performed.

125. Official Referees' Fees.

And be it Enacted, That the Official Referees aforesaid shall have and be entitled to the following fees:

For every survey directed to be made by them, the sum of Two Pounds Two Shillings each.

For every certificate signed by them, in pursuance of the directions of this Act, the sum of One Pound One Shilling each.

For every award to be made, in pursuance of the directions of this Act, the sum of Five Pounds Five Shillings each.

126. Clerk of the Peace's Fees.

And be it Enacted, That every Clerk of the Peace shall be entitled to a fee of One Shilling for every matter directed to be filed with him, and the sum of Sixpence per folio of One hundred words for every quarterly Surveyor's accounts directed to be filed, such payment to be made by the party filing the same.

127. Court of Mayor and Aldermen.

Provided always, and be it Enacted, That all the powers and authorities by this Act vested in the Mayor and Aldermen of the City of London, may be lawfully exercised by the Court of Mayor and Aldermen of the said City, to be holden in the Outer Chamber of the Guildhall of the said City, according to the custom of the said City.

128. Distress not unlawful for want of form, &c.

And be it Enacted, That when any distress shall be made for any sum or sums of money to be recovered by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect of form in any proceedings relating thereto; nor shall the party or parties be deemed a trespasser or trespassers ab initio, on account of any irregularity done by him or them; but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage only, and that by action on the case, and not by any other action whatsoever.

129. Plaintiff not to recover if tender of sufficient amends be made, &c.

Provided always, and be it Enacted, That no plaintiff shall recover in any action for any such irregularity or other proceedings, if before such action be brought, tender of sufficient amends be made, by or on the behalf of the party who committed, or caused to be committed

mitted, any such irregularity or wrongful proceeding; and in case no such tender shall have been made, it shall and may be lawful for the defendant in any such action, by the leave of the court where such action shall depend, at any time before issue joined, to pay into the court such sums of money as he shall see fit, whereupon such proceedings or order and judgment shall be had, made or given in and by such court as in other actions where the defendant is allowed to pay money into court.

130. No Order of the Mayor or Justice, or other proceeding, to be removed by Certiorari.

And be it Enacted, That no order which shall be made by virtue of or under this Act, or any other proceeding to be had, touching the conviction of any offender against this Act, except proceedings touching the conviction of any offender for carrying on a trade or business offensive, noxious or dangerous, contrary to this Act, otherwise than those hereinbefore specified, shall be removed or removable by certiorari, or any other writ or process whatsoever, into any of Her Majesty's Courts of Record at Westminster.

131. Parishioners may be Witnesses.

And be it Enacted, That the parishioners and inhabitants of the parish, precinct or place where any offence against this Act shall be committed, shall be competent witnesses on the trial, or otherwise, in any action, bill, or in any of the said Courts of Record, or at or upon the hearing and determination of any matter before the Mayor and Aldermen of the city of London or any Justice of the Peace, for or concerning any offence or offences against this present Act, notwithstanding their being parishioners or inhabitants in such parish, precinct or place, and their evidence, if otherwise receivable in the case, shall be received accordingly.

132. Limitation of Actions for Penalties, and appropriation of Penalties.

Provided always, and be it Enacted, with regard to every penalty or forfeiture inflicted by or incurred under this Act, That no action or prosecution shall be brought or commenced against any person for the same, unless such action or prosecution shall be commenced within Six calendar Months next after such penalty or forfeiture shall have been incurred; and the amount of every such penalty or forfeiture not specifically appropriated, shall be recovered and received by the party suing for the same, or giving information under the provisions of this Act.

Appropriation of Penalties.

133. Limitations of Actions against Persons acting under the Act.

And be it Enacted, That no action or suit shall be commenced against any person for any thing done in pursuance of this Act until Twenty-one Days after notice in writing of an intention to bring such action or suit shall have been given to every person or persons against whom such action or suit is to be brought, nor after the expiration of Six Months next after the fact committed; and every such action or suit, the cause whereof shall arise within the said City of London, or the Liberties thereof, shall be laid and tried in the said City

of London, and not elsewhere; and every such action or suit, the cause whereof shall arise in any part of the limits aforesaid out of the said City of London and liberties thereof, shall be laid and tried in the County of Middlesex, and not elsewhere; and the defendant in every such action or suit may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act; and if the said matter or thing appear to have been so done, or if it appear that such action or suit was brought before the expiration of Twenty-one Days after such notice given as aforesaid, or that sufficient satisfaction was made or tendered before such action was brought, or if any such action or suit be not commenced within the time herein for that purpose limited, or be laid in any other county or place than as aforesaid, then the Jury in every such action or suit shall find for the defendant and if a verdict be found for the defendant, or if the plaintiff in any such action or suit become nonsuited, or discontinue or suffer a discontinuance of any such action or suit, or if judgment be given for the defendant therein, on demurrer, or by default, or otherwise, then and in any of the cases aforesaid the defendant shall have judgment to recover Treble costs of suit, and shall have such remedy for recovering the same as any defendant may have for costs in other cases by law.

General Issue.

134. Act not to avoid Agreements.

And be it Enacted, That nothing herein contained shall avoid any agreement in writing made before the passing of this Act for building or altering any building, but that the same shall be performed with all the alterations which may be rendered necessary by this Act, and that as if such alterations had formed part of the agreement; and that the difference between the costs and expenses of the work when performed according to the provisions of this Act, and the work as stipulated for in such agreement, if the parties thereto shall disagree about the same, shall and may be submitted by either party (notice being given in writing to the other) to the Surveyor, who shall determine the same, subject to an appeal, at the instance of any person aggrieved, to the Official Referees, and the determination of such Surveyor, or, in case of appeal, of such Official Referees, shall be final and binding on all the parties, and that in all respects as if such determination had formed part of the contract; and the costs of the reference shall be borne by all or any or either of the parties, in such manner and proportion as the Surveyor, or, in case of appeal, the Official Referees, shall appoint.

135. [Clause (L.) Respecting contracts for Leases.

And be it Enacted, That nothing herein contained shall be deemed to alter or affect any lease, or agreement for a lease, whereby any person may be bound to erect buildings; but that the buildings agreed to be built by such lease or agreement shall be built according to the conditions rendered necessary by this Act, in the same or like manner as if

if this Act had been passed and in operation at the time of making such lease or agreement, and without the lessee or tenant being entitled to any compensation, either by payment of money, reduction of rent or otherwise.

136. Exemption from Stamp Duty.

And be it Enacted, That no Stamp Duty shall be payable on any certificate or award to be signed by any Surveyor or Official Referees in pursuance of this Act.

137. Clause (M.) Service of Notices.

And be it Enacted, That every notice by this Act required to be given to the owner of any house, building or ground, shall, if such owner be a married female other than a cestuique trust, in regard to such property, be given to the husband of such married female; or if such owner shall be an infant, idiot or lunatic, or cestuique trust, then to the guardian, trustee or committee of such infant, idiot or lunatic, or cestuique trust; or if such owner, husband, trustee, guardian or committee is not known or cannot be found, then to the occupier of such house, fence, building or ground, or if such house, building or ground be unoccupied, then such notice shall be affixed to some conspicuous part of such house, building, fence or ground at a height of not more than Nine Feet from the ground; and every such notice when so given to such persons respectively as aforesaid, or left at the usual or last place of their respective abodes, or when so affixed as aforesaid, according to the cases hereinbefore mentioned, shall have the same effects and consequences to all intents and purposes as if given to the actual owner; and any notice hereby required to be given to any of the parties aforesaid may be left at their usual or last place of abode.

138. Clause (N.) How consent to be given in certain cases.

And be it Enacted, That every consent by this Act required to be given by the owner of any house, building or ground, shall, if such owner be a married female not being a cestuique trust in regard to such property, be given by the husband of such married female; or if such owner shall be an infant, idiot or lunatic, or cestuique trust, then by the guardian, trustee or committee of such infant, idiot or lunatic, or cestuique trust; or if such owner, husband, trustee, guardian or committee is not known or cannot be found, then by the Official Referees.

139. Clause (O.) Queen's Palaces, &c. excepted.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to any of Her Majesty's Royal Palaces, or to any house or building being in the possession of Her Majesty, Her heirs and successors, or employed for Her Majesty's use or service.

140. Clause (P.) The Bank of England exempted from the Provisions of this Act.

AND whereas by an Act made and passed in the thirty-ninth and fortieth years of the reign of his said late Majesty King George the Third, intituled, "An Act to empower the Governor and Company of the Bank of England to purchase certain Houses and Ground contiguous to the Bank of England, and to enable them to improve certain

Avenues adjacent thereto," the offices and buildings of the Governor and Company of the Bank of England forming the edifice called "The Bank of England," were freed from the regulations and directions contained in the said recited Act of the fourteenth year of his said late Majesty King GEORGE the Third; and for the convenience of the public business carried on therein, the same offices and buildings have been constructed without reference to the provisions of the last-mentioned Act, and it would be attended with great inconvenience to the public to subject the same to the regulations herein contained; BE it therefore Enacted, That the offices aud buildings of the said Governor and Company of the Bank of England already erected, and which now form the said edifice called "The Bank of England," and the offices and buildings hereafter to be erected for the use of the said Governor and Company, and which shall be added to or form part of the said edifice, shall be freed from, and shall not be subject unto all or any of the regulations and directions contained in this Act; but it shall and may be lawful for the said Governor and Company to continue their offices and buildings already built, and hereafter to build new offices and buildings of dimensions convenient for transacting and managing the concerns under their management and direction, and freed and discharged from all the regulations and directions mentioned and contained in this Act respecting buildings in the cities of London and Westminster, and other places in this Act mentioned, any thing herein contained to the contrary in anywise notwithstanding.

141. CLAUSE (Q.) Act not to affect certain Companies.

And be it further Enacted, That nothing in this Act contained shall extend or be contrued to extend to apply to or to prejudice or affect the several buildings and warehouses, in the county of Middlesex and city of London, of or belonging to the Saint Katharine Dock Company, established by an Act made in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for making and constructing certain Wet Docks, Warehouses and other Works in the Parish of Saint Botolph without Aldgate, and in the Parish or Precinct of Saint Katharine, near the Tower of London, in the County of Middlesex," and which have at any time since the passing of the said Act been erected or acquired by or on behalf of the said Company, for purposes connected with the said Saint Katharine Docks.

142. Act may be altered during present Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

A

B I L L

To compel the Allotment of Waste Land in England.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the forty-first year of the reign of his late Majesty King George the Third, intituled, "An Act for consolidating in one Act certain Provisions usually inserted in Acts of Inclosure, and for facilitating the Mode of proving the several Facts usually required on the passing of such Acts:" Preamble: 41 G. 3, c. 109.

And whereas another Act was passed in the first year of the reign of his Majesty King George the Fourth, intituled, "An Act to amend the Law respecting the inclosing of open Fields, Pastures, Moors, Commons and Waste Lands in England:" 1 G. 4, c. 23.

And whereas another Act was passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled, "An Act for facilitating the Inclosure of open and arable Fields in England and Wales:" 6 & 7 W. 4, c. 115.

And whereas another Act was passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to extend the Powers and Provisions of the several Acts relating to the Inclosure of open and arable Fields in England and Wales:" 3 & 4 Vict., c. 31.

And whereas it is expedient to make provision for the allotment of all common, waste and uninclosed lands in England and Wales, in

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in respect of the allotment and Inclosure whereof no Act of Parliament shall have previously passed;

Be it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act* it shall and may be lawful for the Incumbent of any parish in England and Wales, in which any common, waste or uninclosed land shall lie, or for any Two or more Churchwardens or Overseers for any such parish, or for the Lord of any manor in which any such land shall lie, from time to time, and at any time or times hereafter, to present his or their memorial, in writing, under his or their hand or respective hands, to the Tithe Commissioners for England and Wales, requesting the said Commissioners to cause the common, waste and uninclosed lands lying in any such parish or manor, in respect of which any such memorial is presented, to be surveyed; and the said Tithe Commissioners shall, within Twenty-one Days after the presentation to them of any such memorial, appoint some competent person or persons, not interested in such common, waste and uninclosed lands, or any part thereof, to survey such of the common, waste and uninclosed lands lying in the parish or manor, in respect of which such memorial is presented, as shall not at the time of the presentation of such memorial be already in the progress of inclosure.

1. Tithe Commissioners, on memorial, may appoint Surveyor to survey uninclosed Lands in any parish or manor.

And be it Enacted, That the Surveyor so appointed shall immediately after his appointment make a true, exact and particular survey, admeasurement, plan and valuation, in writing, of all the common, waste and uninclosed lands in the parish or manor for which he shall have been so appointed, and shall therein distinguish between such part and parts (if any) of the said common, waste and uninclosed lands, as in the judgment of the said Surveyor shall be capable of cultivation, and such part and parts thereof (if any) as in the judgment of the said Surveyor shall not be capable of cultivation, and the number of acres, and decimal parts of an acre, in statute measure, contained in such common, waste and uninclosed lands, and in every such respective part thereof as aforesaid, and the value respectively in the judgment of the said Surveyor, and the boundaries of the parishes wherein the same are situate, where such common, waste or uninclosed lands extend into more parishes than one, shall be therein set forth and specified; and the said Surveyor shall immediately, upon the completion of the said survey, return one copy thereof to the said Tithe Commissioners, and shall deliver one other copy thereof to the Lord or any one of the Lords of the Manor in which such common, waste and uninclosed lands shall lie, and one other copy to the Overseers of

2. Survey and Valuation to be made, distinguishing Lands capable of cultivation; copies to be sent to the Tithe Commissioners and certain other parties; Surveyor may enter Lands, and do all necessary acts.

of the poor for every parish in which such common, waste and uninclosed lands, or any part thereof, shall lie; and all persons interested therein shall, at all seasonable times, have liberty to peruse and inspect such admeasurement, plan and valuations, and to take copies of and extracts from the copy or copies so deposited as aforesaid with the Overseers of the poor; and the said Surveyor shall, if called upon by the said Tithe Commissioners so to do, verify the said survey, admeasurement, plan and valuation, upon the oath or affirmation of such Surveyor; and that for making such his survey, admeasurement, plan and valuation, it shall be lawful for him, and for his assistants and servants, at any time or times whatsoever, until his survey, admeasurement, plan and valuation shall be completed, to enter, view, examine, survey and admeasure all and every part of the lands and grounds intended to be surveyed, measured and valued by him, and to do or cause to be done any act or thing necessary for carrying such survey, admeasurement and valuation into execution.

3. Overseers shall give notice of Survey, and of a Vestry Meeting to consider Allotment Inclosure.

And be it Enacted, That the Overseers of the poor for any such parish as aforesaid shall, within *Twenty-one* Days after the receipt by them of any such copy as aforesaid, of such survey, admeasurement, plan and valuation, cause notice to be given, in such manner as notices of vestry meetings shall then be given by law, that they have received such copy, and that, for the purpose of taking into consideration the expediency of consenting to the allotment of such common, waste and uninclosed lands, a meeting of the several persons interested in the said common, waste and uninclosed lands will be held at the place at which vestry meetings for the place in which such common, waste and uninclosed lands shall lie are then usually holden, and at a time specified in the said notice, being not less than *Fourteen* Days nor more than *Twenty-one* Days from the time of giving such notice, and shall likewise weekly and every week, from the time of giving such notice as aforesaid, to the time therein appointed for such meeting, cause the same to be advertised in some newspaper then commonly circulating in the county where such common, waste and uninclosed lands shall lie.

4. Persons interested may consent to Inclosure, and certify their consent within Six Months.

And be it Enacted, That it shall be lawful for a majority of the persons interested in the said common, waste and uninclosed lands, in vestry meeting assembled and duly convened as aforesaid, within *Six* calendar Months after the time so notified for such meeting, to signify to the said Tithe Commissioners their consent, in writing, to the allotment of the said common, waste and uninclosed lands, and to the extinction of the right of intercommonage which shall exist, as well over as in respect of such land.

5. On consent being certified within Six Months, Tithe Commissioners to appoint a Commissioner to carry the Inclosure into effect; power to supply vacancies.

And be it Enacted, That if such consent in writing shall be certified to the said Tithe Commissioners, at any time within the space of *Six* calendar Months from the time notified by the Overseers of the poor for such public meeting of the persons interested as aforesaid, the said Tithe Commissioners shall, within the space of *Three* Months after they shall have been so certified of such consent, appoint the person or persons who shall have made such survey as aforesaid, or some other competent person or persons not interested in the lands proposed to be inclosed, to be a Commissioner or Commissioners for dividing and allotting, and he or they is and are hereby empowered to divide and allot, all or any of the common, waste and uninclosed lands which shall in such survey be reported to be capable of cultivation; and when and as often as any such Commissioner, or any Commissioner to be from time to time appointed in his place, shall die, neglect, refuse or become incapable to act, the said Tithe Commissioners shall appoint any other person not interested in the premises to be a Commissioner in the stead or place of the Commissioner so dying, neglecting, refusing or becoming incapable to act as aforesaid; and every such new Commissioner so to be appointed shall have the like powers and authorities for carrying this Act into execution in all respects whatsoever as the Commissioner in whose place he shall have been so appointed as aforesaid was invested with under and by virtue of this and the said hereinbefore-recited Acts.

6. On all Inclosures Five parts in every Hundred shall be allotted to Trustees for the poor.

And be it Enacted, That on every allotment or inclosure of common, waste or uninclosed lands in England and Wales which shall take place after the *passing of this Act*, whether under the authority of this Act or of any other Act or Acts, or in which the actual division and allotment shall not have commenced before the passing of this Act, the Incumbent, Lord of the Manor, Churchwardens and Overseers of the poor for the parish in which the lands to be inclosed, or any part or parts thereof shall lie, shall have allotted to them and their successors, as Trustees for the poor of the same parish, an allotment or allotments, after the rate of *Five* parts out of every Hundred parts of all the land reported to be capable of cultivation as aforesaid which shall lie in such parish, regard being had to situation and value, as well as to the superficial extent, in determining such allotment or allotments.

7. If persons interested do not consent to Allotment within Six Months, Tithe Commissioners shall assign Ten parts in every

And be it Enacted, That if such consent as aforesaid shall not within *Six* calendar Months after the time so notified for such meeting as aforesaid be certified to the said Tithe Commissioners, it shall and may be lawful for the said Tithe Commissioners, and they are hereby required, by writing under their hands, to assign to the Incumbent, Lords of the Manor, Churchwardens and Overseers of the poor of the

the parish in which the lands proposed to be allotted or any part or parts thereof shall lie, and to their successors as Trustees for the poor of the same parish, an allotment or allotments, after the rate of Ten parts out of every Hundred parts of all the lands reported to be capable of cultivation as aforesaid which lie in such parish, regard being had to situation and value, as well as to the superficial extent, in determining such allotment or allotments.

Hundred to Trustees for the poor.

8.
Trustees shall set apart Recreation Grounds.

And be it Enacted, That on such allotment or allotments being made or assigned to them as aforesaid, the said Trustees shall with all convenient speed cause an enlarged plan and admeasurement to be made of such allotment or allotments, and shall by writing under their hands and seals declare such portion or portions of the said allotment or allotments as to the said Trustees shall seem expedient, but so that in every case there shall be at least one such portion containing not less than Five Acres to be set apart to be used and enjoyed by the poor persons inhabiting the said parish, as and for their place or places of recreation; and such place or places of recreation shall be inclosed, laid out, maintained and managed at the expense of the said parish out of the rates raised therein for the necessary relief of the poor, and shall be conducted, managed, used and enjoyed under such rules and regulations as the said Trustees for the time being shall from time to time appoint by any order or orders under their hands and seals.

9.
Trustees may set apart Drying Grounds.

And be it Enacted, That as soon as shall be convenient, after such allotment or allotments have been made or assigned to them as aforesaid, the said Trustees or a majority of them may by writing under their hands and seals declare such portion or portions of the said allotment or allotments as to the said Trustees shall seem expedient to be set apart, to be used and enjoyed by the poor persons inhabiting the said parish as and for their drying-ground or drying-grounds; and such drying-ground and drying-grounds shall be inclosed, laid out, maintained and managed at the expense of the said parish out of the rates raised therein for the necessary relief of the poor, and shall be conducted, managed, used and enjoyed under such rules and regulations as the said Trustees for the time being shall from time to time appoint by any order or orders under their hands and seals.

10.
Trustees shall divide the residue into small Lots, to be fenced off when directed by Vestry Meeting.

And be it Enacted, That the said Trustees or a majority of them shall cause the remainder of the land which shall be so allotted to them as aforesaid to be divided and marked out upon the said enlarged plan and admeasurement into such number of lots as to the said Trustees may seem expedient, so that the largest of such lots shall not be larger than and the smallest of such lots shall not be less than and shall from time to time

time cause such and so many of the said lots as the rate-payers of the said parish, at a vestry meeting duly convened and holden, pursuant to not less than Ten Days' notice, stating, amongst other necessary particulars, that this particular business is to be submitted to such meeting, shall from time to time direct and appoint, to be inclosed and separated from the residue of the said lots, and from each other, by walls of stone or brick, or other substantial fences: Provided always, That the whole extent to be so fenced off and separated, in each and every year, shall not be more than nor less than of the whole extent allotted as aforesaid to the said Trustees.

11. Trustees may demise Lots to poor parishioners, reserving rent; powers of distress and re-entry.

And be it Enacted, That from time to time, as the said lots are so inclosed as aforesaid, it shall be lawful for the said Trustees, or a majority of them, by writing under their hands and seals, to demise the same, in separate holdings, to poor persons inhabiting the said parish, who are not known to be lawfully settled elsewhere, but not more than One such lot to any one poor person, nor for any term exceeding *Twenty-one* Years, reserving rent for the same at the rate of *One* Shilling for the first year of any such term, of *One-half* the yearly value of such lot, according to the rate at which other such lands are then annually let in the neighbourhood, for the second year of any such term, and at the fair yearly value of such lot for the third and every succeeding year of any such term; and such instruments of demise, or a counterpart thereof, shall be executed by the intended lessees, and shall contain such restrictions and stipulations, as to the mode of cultivating and maintaining the lot intended to be thereby demised, as to the said Trustees shall in each particular case seem fit: Provided always, That the said Trustees shall have the usual landlords' remedies, by distress and otherwise, to enforce payment of any such rent, and that if the rent so reserved as aforesaid, or any such demise, shall remain in arrear and unpaid by the space of *Twenty-one* Days after such rent shall have become due, or if the lessee on any such demise shall have committed a breach of such stipulations and restrictions, or shall have omitted to cultivate the lot so devised to him by the space of *Six* Months, or shall have assigned or under-let the same or any part thereof, it shall and may be lawful to and for such Trustees for the time beings, into all or any part of the demised premises, in the name of the whole, to re-enter, and the same to have again and re-possess, free and for ever discharged from such demise, and every such lessee and his assigns, and all other occupiers of the same premises, thereout and from thence utterly to expel, put out and amove, any thing in any such instrument of demise to the contrary thereof in anywise notwithstanding.

And

12. Vestry Meeting may yearly direct a certain sum to be laid out in building Cottages.

And be it Enacted, That the Overseers of the poor of every such parish in which lands have been allotted or assigned, or otherwise vested in such Trustees as aforesaid, shall, Once in every year, at a vestry meeting duly convened and holden pursuant to notice, stating amongst other necessary particulars that the question hereinafter mentioned is to be submitted to such meeting, submit to the consideration of the rate-papers of such parish whether any, and, if any, what sum, not exceeding in the pound on the sum assessed on the said parish by the then last rate for the relief of the poor, shall be expended out of the poor-rates of the said parish, in the year next ensuing from the day of such vestry meeting, in the building and fitting up of cottages upon or near the said lots, to be let along with or to the respective tenants of the said lots; and in case the majority of rate-payers so in vestry meeting assembled shall direct any sum to be so expended as aforesaid, the said Overseers shall forthwith transfer such sum, out of the monies then in hand on account of the poor-rates of the said parish, to the credit of the account kept by them under this Act, for the Trustees of such parish under this Act.

13. Trustees to demise Cottages, one with each Lot.

And be it Enacted, That the Trustees of such parish under this Act shall from time to time lay out the sums of money so transferred to their account, as last aforesaid, in the building and fitting up of cottages on the said lots, or on any other land belonging to such parish lying near the said lots, but so that there shall not at any time be more than One cottage on any one of such lots, and shall demise such cottages, along with or to the respective tenants of the said lots, for a term which shall expire on the same day as the term then already existing or therein created in the lot on which such cottage is built, or along with which it is demised, reserving rent for the same according to the rate at which other cottages of the like quality are then usually let in the same neighbourhood, and that the rent of every such cottage shall be payable on the same days in every year as the rent for the lot on which such cottage is built, or along with which it is demised, and that the demise of every such cottage shall be by the same or the like instrument of demise, to be executed in the same manner and to contain the like restrictions and stipulations, and shall be subject to the like powers of distress and entry and summary evictions as are herein provided with respect to the demise of the said lots; and that if any such cottage, and any lot to which it is annexed as aforesaid, shall be demised by several instruments of demise, such instruments shall nevertheless, with reference to the aforesaid powers of distress, entry and eviction, be construed as a single demise at a single rent consisting of the aggregate amount of the several rents reserved by such several instruments of demise.

14. Trustees shall have sole management of Lots and Cottages, and may make temporary demises from year to year to any persons.

And be it Enacted, That subject to the provisions and restrictions herein contained, the said Trustees shall have the sole control and management of all and every such lots and cottages, and the same shall from time to time be demised by them to such of the poor inhabitants as aforesaid, as the said Trustees or the majority of them shall think fit, but so that no poor person shall at one and the same time be tenant of more than One such cottage and One such lot: Provided always, That from time to time, and at all times, so often as any one or more of the said lots shall remain uninclosed, or there shall be no poor person inhabiting such parish who are both proper and willing to become tenant or tenants of any one or more of the said lots and cottages under the provisions herein contained, it shall and may be lawful for the said Trustees, by any instrument or instruments in writing under their hands and seals, to demise the same, either together or in parcels, to any person or persons who shall be willing to take the same, as tenant or tenants thereof from year to year, at the most improved yearly rent or rents; and such instruments of demise, or a counterpart thereof, shall be executed by the intended tenants, and shall contain such restrictions and stipulations, as to the mode of cultivating and maintaining the lots and cottages intended to be thereby demised, as to the said Trustees shall in each particular case seem fit; and every such demise shall be subject to the like powers of distress and entry and summary eviction as are herein provided with respect to the demise of the said lots to poor persons inhabiting such parish.

15. By direction of Vestry Meeting, Trustees may buy Lands for purposes of Act.

And be it Enacted, That if in any parish in England and Wales there shall either be no common, waste or uninclosed land available for the purposes of this Act, or the allotment to the Trustees under this Act shall at any time or times hereafter prove inadequate for such purposes, it shall and may be lawful for the Overseers of the poor of such parish, at a vestry meeting duly convened and holden pursuant to notice, stating amongst other necessary particulars that the question hereinafter mentioned is to be submitted to such meeting, to submit to the consideration of the rate-payers of such parish whether any, and, if any, what sum, not exceeding in the pound on the sum assessed on such parish by the then last rate for the relief of the poor, shall be expended out of the poor-rates of the said parish, within the year next ensuing after the day of such vestry meeting, in the purchase of land situate either in such parish or elsewhere, for division into lots and the sites of cottages as aforesaid, under the provisions of this Act; and in case the majority of rate-payers so in vestry meeting assembled shall direct any sum to be so expended, the Overseers shall transfer such sum, out of the monies then in hand on account of the poor-rates of the said parish, to the credit of the account kept by them under this Act, for the said Trustees under this Act: Provided always,

always, That if the monies then in hand on account of the poor-rates of the said parish shall not be sufficient in that behalf, it shall and may be lawful to the said Overseers to advance or borrow such sum as they shall think necessary to make up the deficiency in the monies so in hand as aforesaid, and to reimburse themselves or to be reimbursed by the next succeeding Overseers, as the case may be, out of the monies which shall be raised by the then next rate for the relief of the poor of such parish.

16. Trustees shall lay out money in purchase of Land, and shall be seised thereof, and of Lands given and allotted to them on the trust and for the purposes of this Act.

And be it Enacted, That the Trustees of such parish under this Act shall from time to time lay out the sums of money so transferred to their account as last aforesaid in the purchase of such lands situate either in such parish or elsewhere as shall to the said Trustees seem to be convenient to be allotted for the poor of such parish in pursuance of the provisions of this Act, and that the said Trustees shall stand and be seised and possessed of the lands so purchased, and likewise of the lands, if any, which from time to time shall be conveyed to them by way of gift, as hereinafter mentioned, or allotted to them under any inclosure or inclosures that shall be made otherwise than under the provisions of this Act, upon the trusts and for the purposes, and with, under and subject to the several powers and provisions in this Act contained with reference to lands to be allotted to Trustees under this Act, under and by virtue of the provisions in this Act contained.

17. Trustees may accept gifts, &c., and hold Lands in mortmain.

And be it Enacted, That it shall be lawful for the Trustees of any parish under this Act from time to time to accept and take any lands proper for division into lots, or for the sites of cottages as aforesaid, from any person or persons willing to give the same; and the said Trustees shall and may be capable in law, and may have power, notwithstanding the statute of mortmain, to purchase, have, take, hold, receive and enjoy cottages and lands in fee and in perpetuity, or for terms of lives or years, for the charitable ends and purposes of this Act; and that it shall be lawful for any person or persons, bodies politic or corporate, their heirs and successors respectively, to give, grant, sell, alien, assign or dispose of, in mortmain, in perpetuity or otherwise, to or to the use of the Trustees of any parish under this Act, any cottages and lands whatsoever; all which gifts, grants, conveyances, assignments and dispositions any such Trustees under this Act are hereby authorized and enabled to receive, accept and hold.

18. Powers to Justices to deliver possession of Lands and Cottages, 59 G. 3, c. 12, 2 & 3 W. 4, c. 42.

And be it Enacted, That the powers and authorities given by an Act passed in the fifty-ninth year of the reign of King GEORGE the Third, intituled, "An Act to amend the Laws for the Relief of the Poor," and by another Act passed in the second year of the reign of King WILLIAM the Fourth, intituled, "An Act to authorize (in

Parishes inclosed under any Act of Parliament) the letting of the Poor Allotments in small Portions to industrious Cottagers," to Justices of the Peace to cause possession of parish houses and lands and portions of land to be delivered to the Churchwardens and Overseers of the poor; and any other auxiliary powers or provisions in the said Acts or other Acts contained, in relation thereto, shall extend to and be exercised by such Justices in respect of the lands and cottages for the purposes of this Act vested in the Trustees of any parish under this Act, in the same manner as if the name of such Trustees had been inserted in the said Acts instead of the names of the Churchwardens and Overseers of the poor.

19. Proceedings and rights of Trustees not affected by changes of the individual persons.

And be it Enacted, That the Trustees or a majority of them for the time being of any parish under this Act may, for the purposes of this Act, execute all the powers, and enforce and exercise all the rights and remedies given them by this Act, or by any other laws or statutes of the realm, notwithstanding such changes as shall from time to time take place in the individual persons constituting such body of Trustees, as fully and effectually, to all intents and purposes, as if such body of Trustees consisted always of the same individual persons, and they are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment, which from time to time may be necessary, in respect of any property which may be vested in them for the purposes of this Act; and in every such action and indictment such property may be laid or described to be the property of the Trustees under this Act of such parish, without stating or specifying the name or names of all or any such Trustees; nor shall the death of or other avoidance of the office of Trustee, by all or any such Trustees, abate or otherwise affect any such action or indictment.

20. Rents to be received by Overseers, and applied in defraying expenses, and in aid of Poor-rate.

And be it Enacted, That all rents paid to or recovered by the Trustees for any parish under this Act, in respect of the lands and cottages vested in them by virtue of this Act, shall be received by the Overseers of the poor, and applied in the first place towards the defraying of all expenses which shall from time to time be necessarily and reasonably incurred by such Trustees in and about the execution of their said trust, and the residue thereof shall be applied by the said Overseers in aid of the rates raised in such parish for the necessary relief of the poor.

21. Payment of Commissioners and Surveyors.

And be it Enacted, That every Commissioner and Surveyor, for the purposes of this Act, who shall be appointed by the said Tithe Commissioners, shall receive as a recompense for his pains and trouble such allowance not exceeding the allowance to a Commissioner under the

the said Act of the seventh year of the reign of his Majesty King WILLIAM the Fourth, as the said Tithe Commissioners shall in each particular case from time to time direct and appoint.

22. Expenses of Allotment, how defrayed.

And be it Enacted, That the charges and expenses of surveying, valuing, planning, measuring, dividing and allotting any common, waste or uninclosed lands, under and by virtue of this Act, and also the expenses of preparing and enrolling the awards of and the allowances and payments to be made to any Commissioners, Umpires and Surveyors respectively, and all other charges and expenses incident to or attending the carrying any such allotment into execution, except so far as is hereinafter otherwise provided for, shall be borne and defrayed in such and the like manner as is provided by the said Act of the seventh year of the reign of his Majesty King WILLIAM the Fourth, for the like charges and expenses of inclosures under that Act: Provided always, That in case the allotment for any inclosure under this Act shall have been completed within the space of *Three* Years after the passing of this Act, such charges and expenses may from time to time be taxed and allowed by the said Tithe Commissioners; and such charges and expenses shall, after having been so taxed and allowed by the said Tithe Commissioners, be paid from time to time by the Commissioners, who are authorized and empowered to advance money for public works under the provisions of an Act passed in the third year of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act to amend Two Acts of the fifty-seventh Year of his late Majesty and the first Year of his present Majesty, for authorizing the Issue of Exchequer Bills, and the Advance of Money for carrying on Public Works and Fisheries, and Employment of the Poor, and to authorize a further Issue of Exchequer Bills for the purposes of the said Acts, and of the several Acts therein recited;" and they are hereby empowered to pay the same to the Trustees of the parish under this Act, in like manner in every respect as if the payment of such charges and expenses had been included in the provisions of the said Act; and in case such allotment shall have been completed more than Three but within the space of *Six* Years after the passing of this Act, then *One-half* of such charges and expenses, after being so taxed and allowed as aforesaid, shall be paid in like manner from time to time by the Commissioners authorized and empowered under the said last-mentioned Acts.

23. Expenses of Trustees, how defrayed.

And be it Enacted, That the charges and expenses which shall from time to time be incurred by the Trustees of any parish under this Act, in carrying this Act into execution, other than the charges and expenses hereinbefore provided for, shall be paid and reimbursed to the said Trustees out of the rents, issues and profits of the cottages and lands vested in them for the purposes of this Act, and so far as

such rents, issues and profits shall not extend, out of the sums raised for the necessary relief of the poor of such parish.

24. Books to be kept, and to be open to inspection.

And be it Enacted, That the Trustees of any parish under this Act shall keep a book or books, in which they shall cause to be entered a full and perfect minute of all their transactions, orders and regulations; and the Overseers of the poor of such parish shall keep another book or other books, in which they shall cause to be entered true and regular accounts of all sums of money received, paid, laid out and expended for and on account of the said trust, and of the several articles, matters and things for which such sums of money shall have been disbursed, laid out and paid; and such books shall at all reasonable times be open to the inspection of any rate-payer of the said parish, without fee or reward; and any such rate-payer may take copies or extracts from the said books, or any part or parts thereof, without paying any thing for the same.

25. Overseers to account, as in other cases.

And be it Enacted, That the Overseers of the poor for any such parish shall render an account of all monies received and disbursed by them under the provisions of this Act, at the same time and times, to the same Justices, and in the same manner, and with, under and subject to the same rights and liabilities to appeal, imprisonment and distress, and in every other respect as now is and from time to time shall be provided by law with respect to monies received by them on account of poor-rates.

26. Other Trustees to pay all Monies to Overseers, or the same may be levied by distress.

And be it Enacted, That all monies which shall be paid under the provisions of this Act to any Trustee of any parish under this Act, other than one of the Overseers of the poor for the same parish, shall be forthwith paid over by the person so receiving the same to the Overseers of the poor for the same parish; and if such person shall make default therein by the space of One Week, the said Overseers or any of them may cause him to be summoned to appear before the Justices of the Peace holding a petty session in and for the division or borough in which such parish or any part thereof shall be situate, and upon proof thereof before such Justices, either by confession of the party claimed against or by the oath of any credible witness or witnesses (which oath such Justices are in every case hereby fully authorized to administer); and that whether the party complained of shall or shall not appear on such summons, such Justices shall order the same, together with interest thereon, from the day of receipt to the day of hearing, after the rate of *Five Pounds* per centum per annum, and the costs attending the information, summons and hearing, to be paid by the person complained against to the Overseers of the poor of such parish, and in default of payment shall cause the same

same to be levied by distress of the goods and chattels of the person complained against, by warrant under the hands of Two or more such Justices (which warrant such Justices are hereby empowered and required to grant), the overplus, if any, after further deducting the charges of distress and sale, being returned to the owner or owners of such goods and chattels; and in case the sum, interest and costs ordered to be paid shall not be paid forthwith upon such order being made, then it shall be lawful for the Justices in such petty session as aforesaid to order the persons complained against, if then present before them, to be delivered and kept in safe custody until return can be conveniently made to such warrant of distress, unless he shall give sufficient security to their satisfaction for his appearance before the Justices holding a petty session for such division or borough, on such day or days as shall be appointed for the return of such warrant of distress, such day being not later than Seven Days from the time of taking such security, which security the said Justices as aforesaid are hereby empowered to take by way of recognizance or otherwise; or in case it shall appear to the satisfaction of such Justices, by the confession of the person complained against, that he hath not goods or chattels within the jurisdiction of such Justices sufficient whereon to levy all such sum, interest and costs, such Justices may, at their discretion, without issuing any warrant of distress, commit the party complained against, for such period of time, and in such and the like manner as if a warrant of distress had been issued, and nulla bona returned thereon; but if a warrant of distress shall be issued, and upon the return thereof it shall appear that no sufficient distress can be had thereupon to levy all the said sum, interest and costs, and the same shall not be forthwith paid, then any Two Justices holding a petty session for such division or borough are hereby required, by warrant under their hands, to cause the person complained against to be committed to the common gaol or house of correction of the county, riding or borough where such complaint shall have been heard, for any term not exceeding

unless all such sum, interest and expenses, and all reasonable charges attending the same, shall be sooner paid or satisfied.

27. Incorporation of provisions in recited Acts.

And be it Enacted, That all and every the clauses, provisions and enactments contained in the said Act passed in the forty-first year of the reign of his Majesty King GEORGE the Third, and of the first year of the reign of his Majesty King GEORGE the Fourth, and of the seventh year of the reign of his Majesty King WILLIAM the Fourth, and of the fourth year of the reign of Her present Majesty, or such of them as are applicable to and consistent with the purposes and object of this Act, shall and may be in full force and effect for carrying into effect the allotments, divisions and exchanges hereby authorized to be made, as fully and effectually as if such clauses,

provisions and enactments had been herein repeated and re-enacted, with such alterations and variations as would adapt them and render them applicable to the objects and purposes of this Act.

28. Exemption from Stamp Duty.

And be it Enacted, That every demise, conveyance or other instrument authorized and directed by this Act shall not be subject to any stamp duty or other tax whatever.

29. Allotment in lieu of Common Rights of Freemen, &c.

AND whereas the freemen of many cities and boroughs, and the inhabitants of many towns and places, in England and Wales, of right use and enjoy common of pasture, common of turbary, or other common rights and easements, for which compensation cannot be provided by allotments to the individual persons from time to time using and enjoying the same; BE it Enacted, That whenever any general allotment shall be made under and by virtue of this Act of any common, waste and uninclosed lands which at the time of such inclosure are subject to any such rights and easements as aforesaid, the Commissioner or Commissioners for carrying such allotment into effect shall, on attentive and full consideration of the premises, set out an allotment, in due proportion to the total value of such rights and easements to which the lands intended to be allotted are subject as aforesaid, and shall award, order and direct such allotment to be ring-fenced, and to be from time to time stocked and depastured in common by the freemen or inhabitants who, but for such inclosure, would have been entitled to such rights and easements, and shall make such orders and regulations for the equitable enjoyment thereof, and for the participation of any produce growing or to grow thereon, as such Commissioner or Commissioners may think beneficial and proper for the several parties who may from time to time be interested therein: Provided always, That nothing herein contained with respect to any such rights or easements shall in any case be construed so as to lessen the quantity or affect the enjoyment of land to be allotted to any Trustees of any parish or place under this Act, but that, whether the residue of the common, waste and uninclosed lands in any parish or place shall or shall not be inclosed under this or any other Act or Acts, the Trustees of such parish or place under this Act shall have and hold their allotment or allotments under this Act freed and absolutely discharged from all and every such rights and easements as aforesaid: Provided always, That no such allotment in lieu of common rights and easements over lands inclosed by virtue of this Act shall in any manner diminish the use and enjoyment of such rights and easements by the freemen of any city or borough, or the inhabitants of any town or place, over any common, waste and uninclosed lands which are not under the provisions of this Act reported to be capable of cultivation.

And

30. Providing for the erection of part Fences.

And be it Enacted, That if any person to whom any land may be allotted by virtue of this Act shall be desirous that such land should be entirely fenced in and inclosed, and of such his desire shall give notice to the persons whose lands adjoin the same, requiring them thereby to execute such portions of the fence or fences between the same boundary as should properly be constructed by them, then and in such case, if such persons shall neglect or refuse to construct such boundary fence or fences within Three Weeks after receipt of such notice, it shall be lawful for the party by or in whose behalf such notice shall have been given, after the expiration of the said Three Weeks, to execute such boundary fence or fences, and to summon the persons by whom the same ought properly to have been made to appear before some Two or more Justices assembled in petty sessions for the district in which the lands to be divided by such boundary fence or fences may be situate; and it shall be lawful for such Justices, and they are hereby required, after hearing the parties on such summons, or in default of the appearance of any of the parties summoned, then in the absence of such parties, to award the sum which should be borne and contributed by such parties respectively towards the expense of such boundary fence or fences; and in default of payment by any such party of the sum so awarded, within Seven Days from the making of such award, it shall be lawful for such Justices, by warrant under their hands, to order that the sum so awarded shall be levied by distress of the goods and chattels of the party liable to pay the same.

31. Saving rights of Lords of Manor.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, lessen or defeat the right, title or interest of the Lord of any manors, or of any person lawfully claiming under or in trust for him, in or to any of the royalties or seigniories, fisheries, manorial or other rights or privileges, customs or services incident or belonging to any manor the lands whereof or of any part whereof may be allotted by virtue of this Act, or of and in any coalstone, ironstone, limestone and minerals of what nature or kind soever, lying and being under any such lands, but that it shall be lawful for the Lord of every such manor, and those lawfully claiming under or in trust for him as aforesaid, to search for, work, dig and carry away all such coalstone, ironstone, limestone and minerals, and to hold and enjoy all such royalties, seigniories, fisheries, and all other such manorial rights, privileges, customs and services, in as full, ample and beneficial a manner, to all intents and purposes, as though this Act had not been passed.

32. Interpretation Clause.

And be it Enacted, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined

or a different meaning, shall, in the construction of this Act, except when the nature of the provision or the context of the Act exclude such construction, be interpreted as follows; (that is to say) the word "Trustees" shall signify a majority of the Trustees; the word "Parish" shall be construed to include any parish, township or place maintaining its own poor and having separate Overseers of the poor; the expression "Vestry Meeting" shall be construed to include all public meetings of the rate-payers towards the rates for the relief of the poor in any such parish, township or place, for the purpose of transacting the parochial business of such parish, township or place; the word "Incumbent" shall be construed to include the spiritual person of whatever order or title who shall have the cure of souls in any such parish, township or place; the word "Overseer" shall be construed to include every person, who, by virtue of his office, takes part in the government of the poor of any such parish, township or place, as Churchwarden, Overseer or Guardian, under an Act passed in the twenty-second year of King GEORGE the Third, intituled, "An Act for the better Relief and Employment of the Poor;" the expression "persons interested in any common, waste or uninclosed land" shall be construed to include the several persons in and by the said Act of the seventh year of King WILLIAM the Fourth, authorized to consent to inclosures under that Act; and wherever, in this Act, in describing or referring to any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be construed to include several persons or parties, matters or things, as well as one person or party, matter or thing, and females as well as males.

22 G. 3, c. 83.

6 & 7 W. 4, c. 115.

33. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

A

B I L L

For facilitating the Inclosure and Improvement of Commons.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

Preamble.

WHEREAS it is expedient to facilitate the Inclosure and Improvement of Commons and other Lands now subject to rights of property which obstruct cultivation and the productive employment of labour; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Tithe Commissioners for England and Wales for the time being shall be the Commissioners for carrying this Act into execution, and that should the office of the said Tithe Commissioners cease before the purposes of this Act shall have been fully executed, it shall be lawful in such case for one of Her Majesty's Principal Secretaries of State to appoint any fit persons, not exceeding *Three* in number, to be Commissioners for carrying this Act into execution in the place of such Commissioners whose office shall so cease, and at pleasure to remove any One or more of the Commissioners so appointed; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to such office in like manner, and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

1. Appointment of Commissioners.

2. Style of Commissioners.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "The Inclosure Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any *Two* of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the Commissioners shall cause to be made a seal of the said

To have a Common Seal.

said Board, and shall cause to be sealed therewith all awards and orders made or confirmed by the Commissioners in pursuance of this Act; and all such awards and orders and other instruments proceeding from the said Board, or copies thereof purporting to be sealed with the seal of the said Board, shall be received in evidence without any further proof thereof; and no award or order of the Commissioners under the authority of this Act, shall be of any force unless the same shall be sealed as aforesaid.

3. Commissioners to report.

And be it Enacted, That the Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings as such Principal Secretary of State shall require, and shall Twice in every year (that is to say) on the First day of January and the First day of June, send to one of the Principal Secretaries of State a general report of their proceedings, specifying the applications which may have been made to them under the provisions of this Act, and the grounds on which they may have given or withheld their consent to such applications, and the progress which shall have been made in each case of Inclosure which shall have been proceeded with; and in every case in which the draft award shall have been framed, as hereinafter directed, such report shall specify the extent of the Land subject to be inclosed to which such draft award may relate, and the quantity of Land (if any) thereby directed to be set out for public purposes as hereinafter provided, and the grounds on which the Commissioners may have directed the same to be set out as aforesaid; or in case no Land shall be by such draft award directed to be set out for public purposes, the grounds on which they may have thought it unnecessary or improper to set out Land for such purposes; and every such report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting thereof.

Report to be laid before Parliament.

4. Power to appoint and remove Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to employ such of the Assistant Commissioners appointed under the provisions of an Act passed in the seventh year of the reign of his late Majesty, intituled, "An Act for the Commutation of Tithes in England and Wales," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant Commissioners, and also a Secretary, Assistant Secretaries, and all such Clerks, Messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers, or any of them; and on any vacancy in any of the said offices, to appoint some other person to the vacant office, and the persons so employed or appointed shall assist in carrying this Act

Act into execution, at such places and in such manner as the Commissioners may direct: Provided always, That the Commissioners shall not appoint more than such Assistant Commissioners to act at any one time, unless the Lord High Treasurer or any Three or more of the Commissioners of Her Majesty's Treasury shall in the case of each such additional appointment consent thereto: Provided also, That the number of such Assistant Secretaries, Clerks, Messengers and officers shall be subject to the like consent.

5. Appointments under this Act limited to Five Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, Secretary or other officer, or person so to be appointed, shall hold his office for a longer period than Five Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Five Years and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

6. Salaries and Allowances.

And be it Enacted, That no salaries shall be paid to the Commissioners appointed or to be appointed in respect of their appointments under this Act, and the allowances to the Assistant Commissioners, and the salaries of the Secretary, Assistant Secretaries, Clerks, Messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any Three of them: Provided always, That the allowance to an Assistant Commissioner shall not exceed the sum of Pounds for every day he shall be actually employed or travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act of the seventh year of his late Majesty King WILLIAM the Fourth: Provided also, That the said Lord Treasurer or Commissioners may allow to any Commissioner, Assistant Commissioner, Secretary, Assistant Secretary, Clerk, Messenger or other officer such reasonable travelling and other expenses as may be incurred by him in the performance of his duties under this Act, in addition to his salary or allowance (if any) respectively.

7. *Allowances and Salaries to be paid out of the Consolidated Fund.*

And be it Enacted, That the allowances and salaries of the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8. Commissioners and Assistant Commis-

And be it Enacted, That every such Commissioner shall before he shall enter upon the execution of his office make the following declaration

sioners to make a Declaration.

ration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act]:"

And every such Assistant Commissioner shall before he shall enter upon the execution of his office make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner,") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

9. Commissioners or Assistant Commissioners may summon Witnesses.

And be it Enacted, That the Commissioners or any Assistant Commissioner may by summons under their or his hand require the attendance of all such persons as they or he may think fit to examine upon any matter relating to any Inclosure or other proceeding under the authority of this Act, and also make any inquiries and call for any answer or return as to any such matter; and also administer or receive declarations and examine all such persons upon declaration, and cause to be produced before them or him upon declaration, all books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof respectively, in anywise relating to any such matter: Provided always, That no such person shall be required in obedience to any such summons to travel more than Ten Miles from the place of his abode.

10. Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners, or to any One or more of them, such of the powers hereby given to the Commissioners as the Commissioners shall think fit (except the power to confirm awards, or to do any act herein required to be done under the seal of the Commissioners), and the power so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner in pursuance of such delegated power

power shall be obeyed by all persons as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Descriptions of Land subject to be inclosed under this Act.

And be it Enacted, That all such Lands as are hereinafter mentioned; (that is to say) all Moors, Commons and Waste Lands, all Lands subject to rights of Common at all times, or during any time or season or periodically, all open and common Arable Fields, all open and common Meadow or Pasture Lands and Fields, all gated and stinted Pastures in which the property of the soil or of some part thereof is in the owners of the cattle-gates and other gates or stints, or any of them; and also all gated and stinted Pastures in which no part of the property of the soil is in the owners of the cattle-gates or other gates or stints, or any of them, all Land held, occupied or used in common, either at all times, or during any time or season or periodically, and either for all purposes or for any limited purpose, and whether separate parcels of the several owners of the soil shall or shall not be known by metes or bounds or otherwise distinguishable; and all Land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year is separated from the property of the soil; and all lot Meadows and other Lands, the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise, shall be Land subject to be inclosed under this Act.

12. Persons interested in Lands for purposes of applications, &c.

And be it Enacted, That for the purposes of this Act, the persons interested in Land subject to be inclosed under this Act, or otherwise subject or to become subject to provisions of this Act, shall be deemed to be the persons hereinafter mentioned, and no others; (that is to say) the persons who shall be in the actual possession or enjoyment or receipt of the rents and profits of any such Land or any part thereof, or any Common or common right thereon, or any Manor of which such Land or any part thereof shall be waste, (except any tenant for life or lives or for years holding under a lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, and except any tenant at will or sufferance,) and that without regard to the real amount of interest of such person; and in every case in which any such Land, Common or common right or Manor shall have been leased or agreed to be leased to any person or persons for life or lives or for years by any lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved; and in every case in which any such Land,

Common or common right or Manor shall be in the possession of a tenant at will or sufferance, or shall have been leased for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be entitled to the said Land, Common or common right or Manor in reversion immediately expectant on the term created or agreed to be created by such lease or agreement for a lease respectively, or subject to the tenancy at will or sufferance, shall be deemed for the purposes of this Act to be the person interested as aforesaid in respect of such Land, Common or common right or Manor; and in every case in which any such Land, Common or common right or Manor as aforesaid shall have been leased or agreed to be leased to any person for life or lives or for years by any lease or agreement for a lease, in which a rent less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease, shall, jointly, with the person who shall be liable to the payment of such rent of such Land, Common or common right or Manor be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively; and in every case in which any person shall be in possession or enjoyment or receipt of the rents or profits of any such Land, Common or common right or Manor under any sequestration, extent, elegit or other writ of execution, or as a receiver under any order of a Court of Equity, the person who, but for such writ or order, would have been in possession, enjoyment or receipt of rents and profits shall, jointly with the person in possession, enjoyment or receipt, by virtue of such writ or order, be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively.

13. Where the Crown is interested, who shall be substituted.

And be it Enacted, That whenever Her Majesty shall be interested in Land as aforesaid, the First Commissioner of Her Majesty's Woods and Forests and Land Revenues for the time being, or in case Her Majesty shall be so interested in right of the Duchy of Lancaster, the Chancellor of the Duchy of Lancaster shall for the purposes of this Act, and to the extent of such respective interest, be substituted for the person interested as aforesaid.

14. Where Duke of Cornwall is interested, who shall be substituted.

And be it Enacted, That whenever the Duke of Cornwall shall be interested in Land as aforesaid, the Chancellor of the Duchy of Cornwall shall for the purposes of this Act, and to the extent of such interest, be substituted instead of the person interested as aforesaid.

15. Provision for persons jointly interested.

And be it Enacted, That whenever an interest in Land, according to the provisions of this Act, shall be vested in several persons as co-trustees

co-trustees or in joint tenancy, such persons shall for the purposes of this Act be considered as jointly interested and entitled to one vote only in respect of their joint interest, but any One or more of such persons may, unless the other or others of them shall dissent therefrom, act or vote under this Act, and the majority in number of any such persons may, notwithstanding any dissent of the minority, act or vote under this Act in the same manner as if all such persons had concurred; and whenever several persons as tenants in coparcenary or in common shall be so interested, each coparcener or tenant in common shall for the purposes of this Act, and to the extent of the value of his respective undivided share, be deemed separately interested and entitled to vote as if he were tenant in severalty.

16. In case of disability Commissioners to name substitutes.

And be it Enacted, That whenever any person interested in Land as aforesaid shall be a minor, idiot, lunatic, feme covert, or under any other legal disability, or beyond the seas, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such person so interested.

17. Attornies may be appointed by persons interested.

And be it Enacted, That it shall be lawful for any person interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, by a Power of Attorney, given in writing under his hand, to appoint an agent to act for him for the purposes of this Act; and all things which by this Act are directed to be done by or with relation to any such person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to sign, concur in and execute any application, or act, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the Power of Attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be appended to every application or act executed by any such agent; and any such Power of Attorney may be in the form following:

Form of Power.

"I, of
do hereby appoint of
to be my Attorney for all the purposes of an Act passed in the years of Her present Majesty, intituled, ."

18. Meeting to consider the expediency of Inclosure.

And be it Enacted, That any person or persons interested in any Land subject to be inclosed under this Act, may call a meeting of the persons interested in such Land, by notice thereof at least *Twenty-one* Days before such meeting on the church door of the parish within the limits of which such Land or the greater part thereof is situate, and by advertisement to be Twice at least inserted during such *Twenty-one* Days, for the purpose of considering the expediency of an application to the Commissioners for the Inclosure of such Land or of any part thereof; and the majority of the persons present at such meeting shall elect a Chairman; and in case an application in writing to the Commissioners to proceed to an Inclosure of such Land or any part thereof shall be signed at such meeting, or at any adjournment thereof, by any persons then present, the aggregate amount of whose interests in the Land to which such application shall relate, either alone or together with the interest of any person or persons who may subsequently sign such application as hereinafter provided, shall not be less in value than *Two-thirds* of the whole interest in such Land, the Commissioners upon receipt of such application shall inquire into the expediency of proceeding with such Inclosure: Provided always, That any person interested in such Land may after such meeting subscribe such application in the presence of a witness or witnesses, and such signature shall, whether the person so signing shall or shall not have been present at such meeting, be effectual for the purposes of this Act.

19. Proportional interests, how estimated.

Provided always, and be it Enacted, That the proportional interests of the persons interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall, so far as relates to the power to sign any application, or to give any notice or consent, or vote at any meeting under this Act, be estimated as hereinafter mentioned; (that is to say) where their interests shall be in respect of Land or other rateable property, then according to the proportional sums at which such Land or rateable property is rated to the relief of the poor; and when their interests shall be in respect of rights of Common enjoyed or claimed in respect of any Land, then according to the proportional sum at which the Land in respect of which they enjoy or claim such rights of Common shall be rated to the relief of the poor; but in case such interests shall be in respect of rights of Common in gross not rated to the relief of the poor, or in case from any other cause it shall appear to the persons present at any meeting, held for the purposes of this Act, impracticable or inequitable to estimate such proportional interests in manner aforesaid, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct in what manner such proportional interests shall be estimated, or to depute an Assistant Commissioner to be present at any meeting or adjourned

adjourned meeting, who may direct in what manner such proportional interests shall be estimated, regard being had to the circumstances of each particular case.

20. Power to equalize Assessments.

Provided also, and be it Enacted, That in case the Land subject to be inclosed under this Act, or the Lands or tenements in respect of which rights of Common therein may be claimed shall be situate in more than one parish, and it shall appear to a majority of the persons present at any such meeting as aforesaid, that the assessments to the poor-rate of the respective parishes in which such Land is situate are calculated upon different principles, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct that for the purposes of this Act the respective assessments shall be deemed to be increased or decreased in such proportions as the Commissioners shall think fit.

21. Proportional interests of Lords of Manors.

And be it Enacted, That in case there shall be several Lords of a Manor, or Lords of several Manors interested in any Land subject to be inclosed under this Act, the proportional interests of such Lords shall be estimated in such manner as the Commissioners may direct.

22. Separate applications for separate tracts.

And be it Enacted, That when the Land to which such application shall relate, shall be in part a tract of open and common Arable, Meadow or Pasture Lands or Fields, and in part a tract of Common or Waste Lands, subject to rights of Common, or shall otherwise consist of separate and distinct tracts subject to separate and distinct rights or classes of rights; and the persons interested in one of such tracts shall not be all interested in the other of them, it shall be lawful for the Commissioners to ascertain whether persons interested in each of such tracts whose interest shall not be less than Two-thirds in value of the whole interest therein, shall have signed such application; and in case it shall thereupon appear that such application is not signed by such proportion in value of the persons interested in any such tract as aforesaid, the said Commissioners shall not proceed further under this Act in respect of such tract, unless or until persons interested therein whose interest shall not be less than Two-thirds shall have signed the said application, or some supplemental or separate application.

23. Consent of the Lord of the Manor.

Provided always, and be it Enacted, That when the Land to which such application shall relate shall be the Waste of any Manor or Land within any Manor to the soil of which the Lord of such Manor shall be entitled in right of his Manor, then unless there shall be some action, suit or controversy as to the title of such Manor, or of the title of the Lord of such Manor to such Waste or Land, or there shall be more than one person interested in such Manor or Land, according to the

definition of this Act, the Commissioners shall not proceed to an Inclosure on such application, unless the person interested in the Land subject to be inclosed as aforesaid in right of such Manor, or his substitute under his act, shall sign such application, or shall signify his assent thereto in writing.

24. Adjournment of Meetings.

And be it Enacted, That in case an adjournment of the said meeting for any cause shall be desired by a majority of the persons attending such meeting, the Chairman shall adjourn the meeting to any time and place desired by a majority of the persons attending such meeting, and so from time to time in case the same shall be in like manner desired by a majority of the persons attending such meeting; and notice of every adjourned meeting shall be given under the hand of the Chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden; and the like order of proceeding shall be observed in any such adjourned meeting, and every thing done at any such adjourned meeting shall be as valid as if done at the original meeting.

25. Forms to be circulated.

And be it Enacted, That the Commissioners shall frame and cause to be printed as soon as conveniently may be after the passing of this Act, forms of applications, notices and such other instruments as they may deem requisite or expedient for facilitating proceedings under this Act, and supply such forms to whomsoever they may think fit to send the same for the use of any person desirous of putting this Act into execution.

26. Commissioners to inquire into expediency of Inclosure, and if satisfied to call Meetings.

And be it Enacted, That upon the receipt of any such application for Inclosure as aforesaid, the Commissioners shall proceed to inquire into the expediency of such Inclosure, having regard as well to the health, comfort and convenience of the inhabitants of any neighbouring cities, towns, villages or populous places, as to the advantage of the Proprietors and persons interested in the Land to which such application shall relate; and if after inquiry they shall consider it expedient that the Inclosure of the Land proposed to be inclosed or any part thereof be proceeded with, they shall from time to time hold by themselves, or by an Assistant Commissioner, such meetings in the matter of such Inclosure as occasion shall require, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed or the greater part thereof is situate; and also a like notice to be given by advertisement, of the time and place of the meeting in the matter of such Inclosure, and of each subsequent meeting in the like matter, *Fourteen* Days' at least before such respective meeting (meetings by adjournment only excepted); and if from

any

any cause the Commissioners or Assistant Commissioner shall think fit to adjourn any such meeting, it shall be lawful for them or him to adjourn such meeting to any future day.

27. Proportional interests of applicants to be scrutinized.

Provided always, and be it Enacted, That in case any person interested in the Land to which such application shall relate shall give notice in writing to the Commissioners that such application was not signed by persons possessing the proportion of interest by this Act required in that behalf, the Commissioners shall before they proceed to inquire into the expediency of such Inclosure ascertain the interests of the persons signing the application; and in case it shall appear that the persons signing the same had not the proportion of interest hereinbefore required for that purpose, no further proceedings shall be taken under such application, until the same shall have been duly signed according to the provisions of this Act.

28. Claims to be delivered in writing.

And be it Enacted, That all persons claiming any common or other right or interest in any Land proposed to be inclosed as aforesaid, shall deliver such claims in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure at such meeting as the Commissioners or Assistant Commissioner shall appoint for the purpose, stating the several particulars in respect whereof such claims are made, and distinguishing the claims in respect of freehold, copyhold, customary and leasehold property from each other, and mentioning therein the places of abode of the respective claimants or their agents at which all notices in respect of such claims may be delivered; and no such claim shall be received by such Commissioners or Assistant Commissioner after the last meeting to be held for that purpose, of which notice shall be given, except for some special cause to be allowed by the Commissioners.

29. Power to set out Boundaries of Commons.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary, inquire into, ascertain and set out the boundaries of the Land proposed to be inclosed; and in case any doubts or difficulties shall arise respecting such boundaries, the Commissioners or Assistant Commissioner shall determine the same in like manner as by this Act provided for the determination of claims made in the matter of such Inclosure.

30. Power to set out Boundaries of Parishes.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary for the purposes of such Inclosure, inquire into the boundaries of any parish in which the Land proposed to be inclosed or any part thereof shall be situate, and of any parish adjoining thereto; and in case it shall appear to the Commissioners or Assistant Commissioner that the boundaries of the same respectively are not

then sufficiently ascertained and distinguished, the Commissioners or Assistant Commissioner shall, after giving such notices as they or he shall think necessary for the protection of the rights of all persons interested in this behalf, ascertain and set out the same respectively in writing under the hand and seal of such Assistant Commissioner, or under the seal of such Commissioners; and after the said boundaries shall be so ascertained and set out and fixed, the same shall and are hereby declared to be the boundaries of such parishes; and the Commissioners or Assistant Commissioner shall within *One Month* after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the Churchwardens or Overseers of the poor of each of the parishes of which the boundary shall be so set out, and shall give notice that such boundary has been so set out, and that such description has been so left as aforesaid, by advertisement: Provided always, That any person interested in the determination of the Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within *Three* calendar Months next after publication of the said boundaries, by delivering or leaving such description as aforesaid, give notice in writing of his dissatisfaction to the Commissioners, specifying the particulars in respect whereof he may be dissatisfied, and request that the matter in dispute may be submitted to the determination of a jury; and in every such case the Commissioners shall and they are hereby required to issue a warrant under their hands and seal to the sheriff of the county in which the parishes in question or one of them shall be situate, commanding such sheriff to impannel, summon and return, and such sheriff is hereby accordingly empowered and required to impannel, summon and return a jury of at least Eighteen sufficient and indifferent men qualified according to the laws of the realm to be returned for trial of issues in Her Majesty's Courts of Record at Westminster; and the persons so to be impanneled, summoned and returned are hereby required to appear before any Assistant Commissioner specially appointed by the Commissioners for that purpose at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impanneled, summoned and returned, a jury of Twelve men shall be drawn by the said Assistant Commissioner, or by some person to be by him appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid, such sheriff shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all parties concerned may have

Appeal on questions of Boundary.

have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Assistant Commissioner is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matter in question, and may authorize or order the said jury, or any Six or more of them, to view the boundaries or the part thereof which is in controversy, and such jury shall upon their oaths, or, being Quakers, upon their affirmations, (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Assistant Commissioner is hereby empowered and required to administer,) inquire into and ascertain the said boundaries, or such part thereof as shall have been in controversy, and shall declare whether the said boundaries as described and set out and published as aforesaid are or are not the true boundaries of the respective parishes, and in case they shall declare that the same are not the true boundaries, then shall declare in what manner the boundaries so described and set out and published as aforesaid ought to be amended, and shall give verdict accordingly, and the Assistant Commissioner shall reduce such verdict to writing and certify the same to the Commissioners, under his hand and seal; and in case such jury shall have declared that the boundaries so described and set out and published as aforesaid ought to be amended, the Commissioners shall amend the same in accordance with such verdict, and such amended boundaries shall thenceforth be conclusive on all persons whomsoever.

31. Non-attendance of jurymen.

And be it Enacted, That if any person so summoned and returned upon any such jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act; or if any person so summoned to give evidence as aforesaid shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse, to be judged of and determined by the said Assistant Commissioner, shall forfeit and pay for every such offence any sum not exceeding *Ten Pounds*; all which said penalties and forfeitures shall and may be recovered as penalties and forfeitures are recoverable under this Act.

32. Juries to be subject to the Regulations concerning Juries returned to try issues in Courts of Record at Westminster.

And be it Enacted, That every such jury and jurymen as aforesaid shall also be subject to the same regulations, pains and penalties as if such jury and jurymen had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster.

33. Costs of appeal.

And be it Enacted, That in every case in which the verdict of a jury shall be given in favour of the person who shall have requested that such jury be summoned, all the costs of summoning such jury and the expenses of witnesses shall be defrayed by the Commissioners, and shall be expenses in the Inclosure in the matter of which the question shall have arisen, and such costs and expenses shall be settled and determined by the said Assistant Commissioner as aforesaid; but if the verdict of the jury shall be given against such person, the said costs and expenses shall be defrayed by such person; and in case such costs and expenses shall not be paid to the party entitled to receive the same within *Ten* Days after the same shall have been demanded, then the same shall and may be recovered by distress.

34. Security for Costs to be taken by the Commissioners.

And be it Enacted, That every person who shall be dissatisfied and shall require a jury to be summoned as aforesaid, shall, at his own costs, before the Commissioners shall be obliged to issue their warrant for the summoning of such jury, enter into a bond with two sufficient sureties to the Commissioners in a sufficient penalty to prosecute the complaint, and to bear and pay their costs and expenses of summoning and returning such jury and taking such verdict, and of the summoning and attendance of witnesses, in case the said costs and expenses shall fall upon them.

35. Statement of Claims to be deposited for examination.

And be it Enacted, That a statement of all claims made in the matter of any Inclosure shall be made and deposited by the Commissioners or Assistant Commissioner acting in the matter of such Inclosure, at some public place within the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate, *Fourteen* Days at least before the time to be appointed for the examination of such claims as hereinafter provided; and the Commissioners or Assistant Commissioner shall cause *Fourteen* Days' notice to be given of the time and place of the meeting for the examination of such claims and for the attendance of all parties concerned therein; and at such meeting the Commissioners or Assistant Commissioner shall proceed to examine into and determine such claims, and shall and may allow or disallow the same in whole, or in part, and make such order therein as to them or him shall appear just; and in case any doubts or difficulties shall arise respecting such claims, or any differences shall happen between any of the claimants touching their respective claims or the relative proportions of their rights and interests, the Commissioners or Assistant Commissioner shall determine the same, and shall make such order therein as to the Commissioners or Assistant Commissioner shall appear just, which order shall be final, unless any party shall be dissatisfied with the determination of the Commissioners or Assistant Commissioner, and shall proceed to try his right by an issue at law, without prejudice nevertheless to such

Claims to be heard and determined.

such right to a rehearing, after the draft award shall have been framed, as hereinafter provided.

36. Commissioners not to decide on Titles.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to enable the Commissioners or Assistant Commissioner to determine the title of any Lands or to determine any right between any parties contrary to the actual possession of any such parties (except in cases of encroachment, as hereinafter mentioned), but in case the Commissioners or Assistant Commissioner shall be of opinion against the rights of the party in possession, they or he shall forbear to make any determination thereupon until the possession shall have been given up by such party or recovered from him in due course of law; or where the circumstances shall admit, such Commissioners or Assistant Commissioner may declare what right is appendant or appurtenant to any Land, or otherwise declare by any sufficient description the rights of the owner for the time being of any Land without declaring by name who may be the actual owner of such Land.

37. Provisions for encroachments within Twenty Years.

And be it Enacted, That all encroachments and Inclosures which shall have been made by any person from or upon any part of the Land proposed to be inclosed, within *Twenty* Years next before the first meeting for the examination of claims in the matter of the Inclosure thereof, whether any amerciament, rent or money, payment or acknowledgment shall or shall not have been paid in respect of the same to or for the use of the Lord of the Soil, or any other person, shall be deemed parcel of the Land subject to be inclosed, and shall be divided, allotted and inclosed accordingly: Provided always, That in case under the circumstances of any such encroachments or Inclosures it shall appear to the Commissioners or Assistant Commissioner just or reasonable that rights should be allowed to the persons in possession of such encroachments or Inclosures, it shall be lawful for the Commissioners or Assistant Commissioner to allow and declare such rights accordingly: Provided also, That it shall be lawful for the several persons who shall be in possession of any such encroachments or Inclosures, or in the receipt of the rent thereof at the time of the confirmation of the draft award under this Act, to take down or remove all such buildings, fences and other erections as shall then be thereon, and to convert the materials thereof to their own use; and in case any dispute or difference shall arise touching any such encroachments or Inclosures, or as to the extent thereof, such dispute or difference shall be determined by the Commissioners or Assistant Commissioner.

38. School-houses &c. not to be deemed encroachments.

Provided also, and be it Enacted, That in case any such Land shall have been taken or used, at any time before such first meeting for the examination of claims, for the erection of a school-

house or the appurtenances thereto, or for other charitable or parochial purposes, such Land so taken, or the erections made thereon, shall not be taken or deemed to be of the nature of an encroachment within the meaning of this Act.

39. Encroachments of Twenty Years' standing to be deemed ancient Inclosures.

Provided always, and be it Enacted, That all Land which shall have been inclosed from any Land subject to be inclosed under this Act for more than *Twenty* Years next preceding the day of the first meeting for the examination of claims in the matter of such Inclosure shall, for the purposes of this Act, be deemed and taken to be ancient Inclosures.

40. Rights in respect of Tofts to be allowed.

And be it Enacted, That all tofts, foundations or sites of ancient commonable messuages or cottages shall, upon proof being made to the satisfaction of the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, that commonable messuages formerly stood thereon, be deemed commonable messuages or cottages, and the respective proprietors thereof shall be entitled to the same compensation for the rights of common originally belonging thereto as if such messuages or cottages were still standing.

41. Rights not sustainable in law to be allowed upon proof of Sixty Years' usage.

And be it Enacted, That where any claim shall be made to any right of Common or other right which in the judgment of the Commissioners or Assistant Commissioner could not be sustained in law, but proof shall be made to the satisfaction of the Commissioners or Assistant Commissioner that there has been enjoyment under the right so claimed for the space of *Sixty* Years or upwards, next before the first meeting for the examination of claims in the matter of such Inclosure, it shall be lawful for the Commissioners or Assistant Commissioner to allow such claims in such and the same manner as if the right so claimed might have been legally sustained and established.

42. Insulated Inclosures may be inclosed.

And be it Enacted, That all inclosed Lands, whether lying in single pieces or in several adjoining pieces, which are surrounded by Land subject to be inclosed, and thereby placed in an insulated situation, shall be deemed part of the Land subject to be inclosed.

43. Appeal in respect of Claims.

Provided always, and be it Enacted, That if any person claiming to be interested in any Land proposed to be inclosed under this Act shall be dissatisfied with any determination of the Commissioners or Assistant Commissioner, concerning any claim or interest in or to the Land proposed to be inclosed under the powers hereinbefore contained, and shall cause notice in writing of such dissatisfaction to be delivered to the Commissioners, to be given within *Thirty* Days next after notice of such determination shall have been given to the several parties or persons specially interested, if any such there be, it shall be lawful for such person so dissatisfied and giving such notice as

aforesaid

aforesaid to bring an action upon a feigned issue against the person in whose favour such determination shall have been made, or against the Commissioners, and to proceed to a trial at law at the then next Assizes, or at the Assizes immediately following such next Assizes, to be holden for the county wherein the Lands relating to which such dispute shall arise are situate; and the defendant in such action shall, upon being served with the usual process therein, appear thereto, and accept One or more issue or issues whereby such claim, and the right and interest thereby insisted upon, may be tried and determined; such issue to be settled by the proper officer of the Court in which the said action shall be commenced in case the parties shall differ about the same; and the verdict given upon the trial of such action shall be binding and conclusive upon all parties thereto, unless the Court wherein such action shall be brought shall set aside such verdict and order a new trial to be had; and after such verdict shall be given and final judgment obtained thereon, the Commissioners shall act in conformity thereto, and allow or disallow the claim thereby determined according to the event of such trial; and the costs attending any such action shall abide the event of the trial.

44. Determination of Commissioners not appealed against conclusive.

Provided always, and be it Enacted, That if no such notice shall be given, or if no such action at law shall be commenced as aforesaid, or if any such action shall be commenced and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, unless the Court for sufficient cause put off the trial, then the determination of the said Commissioners or Assistant Commissioner shall be final and conclusive.

45. Actions not to abate.

And be it Enacted, That if any person, plaintiff or defendant, in any action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such event had happened, the heir or devisee or other person entitled to the interest of the deceased party in the matter in question being served with process in the action; and if any person in whose favour such determination as aforesaid shall have been made, and against whom any such action might have been brought if living shall die before any action brought, it shall be lawful for the person who might have brought such action to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the Commissioners with process for commencing such action in the same manner as the deceased person might have been served therewith if living; and it shall thereupon be incumbent on the Commissioners to serve with such process the heir or devisee or personal representative of the deceased person, or other the person who shall claim the benefit of such determination as aforesaid; and on such process being served, such heir or devisee, or personal representative,

or other person, shall appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been living, and the rights, interests and claims of all parties shall be equally bound by the event of any action so brought or continued as aforesaid, as if the death of any of the persons interested therein had not occurred.

46. Commissioners may award Costs.

And be it Enacted, That in case the Commissioners or Assistant Commissioner acting in the matter of any Inclosure upon the determination of any claim or objection to be delivered to them or him in pursuance of this Act, shall see cause to award any costs, it shall be lawful for the Commissioners or Assistant Commissioner, upon application, to assess and award such costs as they or he shall think reasonable to be paid to the person in whose favour any determination of the Commissioners or Assistant Commissioner shall have been made, and by the person whose claim or objection shall have been disallowed; and in case any person liable to pay such costs shall neglect or refuse to pay the same upon demand, the Commissioners or Assistant Commissioner shall by warrant directed to any person or persons whomsoever cause such costs to be levied by distress; and if there shall be no goods and chattels whereon to levy such costs, it shall be lawful for the person in whose favour such costs shall be awarded, to recover the same by action of debt, or on the case; in which action it shall be sufficient for the plaintiff to declare that the defendant is indebted to him in the sum specified in the order of adjudication made by the Commissioners or Assistant Commissioner, and in consequence of such order, without setting forth any other proceedings under this Act.

47. Draft Award.

And be it Enacted, That when the Commissioners or Assistant Commissioner, acting in the matter of any Inclosure, shall have determined such claims as hereinbefore directed, and, in case any doubt or difficulties shall have arisen respecting the boundaries of the Land proposed to be inclosed, shall have determined and set out such boundaries, they or he shall determine what part of the Land proposed to be inclosed shall be set out and appropriated for such public purposes as hereinafter mentioned, or any of them; (that is to say) for the formation of public roads and ways, or widening any existing public roads or ways, for supplying stone, gravel or other materials for the repairs of the several roads and ways to be made over such Land, and of the other roads and ways within the parish in which such Land shall be situate, for the formation of such public drains, watercourses or embankments as may appear conducive to the health and advantage of such parish or the neighbourhood, for a place of exercise and recreation for the inhabitants of the neighbourhood, for the formation or improvement of public ponds, wells and watering-places,

places, and for a supply of fuel for the poor or other inhabitants of the parish, for Land for any burying-ground, or enlarging any burying-ground, for the site of any school or of any workhouse or garden to be attached thereto, or for any other purpose of public utility or convenience, or for the convenience or accommodation of the persons interested in the Land to be inclosed, and shall frame a draft award, to which shall be annexed a map of the Land to be inclosed, showing the position and quantity of the Land proposed to be set out for such public purposes as aforesaid, and the public roads and ways (if any) proposed to be stopped or diverted, and also the private drains, watercourses and embankments which may appear to the Commissioners or Assistant Commissioner essential for the purposes of the proposed Inclosure; and such draft award shall contain a declaration of the proportional right or interest of the Lord of the Manor (if any), and of the several and respective rights or interests of the several persons interested in the Land to be inclosed according to the determination of the Commissioners or Assistant Commissioner as aforesaid; and where such persons shall be interested in respect of Lands or rights of different tenures, or held under different titles, or in respect of separate rights appendant or appurtenant to different Lands, shall specify and distinguish the rights and interests in respect of such different tenures, titles and Lands respectively.

48. Deposit of draft Award.

And be it Enacted, That as soon as such draft award shall have been framed as aforesaid, the Commissioners or Assistant Commissioner shall deposit a copy of the same at some convenient place within the parish in which the Land to be inclosed, or the greater part thereof, shall be situate, for the inspection of all persons interested in the Inclosure, and shall forthwith give notice in such manner as to the Commissioners shall seem fit, where the said copy may be inspected, and shall upon the application of any Lord of a Manor, interested in such Inclosure, and entitled to the soil of the Land to be inclosed, furnish him with a copy of such draft, and shall in such notice as aforesaid appoint some convenient place and time (the First not earlier than *Twenty-one* Days from the first giving of such notice) for holding a meeting to hear objections to such draft award by any person interested therein in respect of any matter appearing therein, which shall not have been heard and determined on such examination of claims as hereinbefore directed; and the Commissioners or Assistant Commissioner at such meeting as aforesaid, shall hear and determine any such objections which may be then and there made to the said draft award, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and from time to time fix further meetings for the hearing and determining of such objections; of which further meetings when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting; and

and Meeting for hearing objections.

and when the Commissioners or Assistant Commissioner shall have heard and determined all such objections, they or he shall amend such draft award accordingly if they or he shall see occasion.

49. Rehearing.

And be it Enacted, That if any person interested in any such Inclosure shall be desirous that any claim or matter which shall have been previously determined by the Commissioners or Assistant Commissioner on the examination of claims as aforesaid, and in respect of which no action at law shall have been brought under the provision hereinbefore contained, should be reheard as an objection to the draft award, and of such his desire shall give notice in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure at or before the meeting, held to hear such other objections to such draft award as aforesaid, the Commissioners shall forthwith give notice in such manner as they shall think fit, appointing some convenient place and time for holding a meeting to rehear such claim, matter or objection; and the Commissioners or any Assistant Commissioner, specially empowered for that purpose, shall rehear and determine the said claim, matter or objection, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and may, if they or he shall see occasion, from time to time fix other meetings for such rehearing; and when the Commissioners or Assistant Commissioner shall have reheard and determined such claim, matter or objection, they or he may, if they or he shall see occasion, amend the draft award accordingly; and the decision of the Commissioners or Assistant Commissioner upon such rehearing shall be final and conclusive, and shall not be subject to be re-opened for any cause whatever: Provided always, That no person shall be entitled to a rehearing of any claim, matter or objection until he shall have procured some sufficient person on his behalf to join with him in giving security by bond to the said Commissioners in a sufficient penalty conditioned for the payment of all such costs as the Commissioners or Assistant Commissioner shall think fit to award, as the costs of such rehearing to be paid to such person as the Commissioners or Assistant Commissioner shall direct.

50. Confirmation of draft Award.

And be it Enacted, That as soon as the Commissioners or Assistant Commissioner acting in the matter of any Inclosure shall have made such amendments in the draft award as to them or him shall seem necessary, or shall have determined that no amendments shall be necessary, the Commissioners, if they think that the draft award ought to be confirmed, shall confirm the same under their hands and seal, and shall add to the draft the date of such confirmation, and shall publish the fact of such confirmation, and the date thereof in the parish, or in each parish in which the Land to be inclosed, or any part thereof, shall be situate, in such manner as to them shall seem fit; and

and every such confirmed draft award shall be binding on all persons interested in the Land to be inclosed, and shall be the basis and guide of all such further proceedings in the matter of such Inclosure as hereinafter directed.

51. Notice of application to Parliament to suspend Inclosures may be given.

Provided always, and be it Enacted, That in case any persons interested in the Land proposed to be inclosed, the aggregate value of whose interests in such Land shall not be less than One-fourth of the whole interest therein, shall within Twenty-one Days after the publication of the confirmation of the draft award cause to be delivered to the Commissioners a notice in writing of their intention to apply to Parliament to suspend such proposed Inclosure, then the Commissioners shall not further proceed with such Inclosure until the expiration of *Six* Weeks after the receipt of such notice by the Commissioners, if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting of Parliament.

52. Meeting for appointing Valuer.

And be it Enacted, That as soon as conveniently may be after the expiration of *Twenty-one* Days next after the publication of the confirmation of such draft award, the Commissioners or Assistant Commissioner acting in the matter of the Inclosure shall call a meeting of the persons interested in the Land to be inclosed, to be held for appointing a Valuer to divide, set out and allot such Land, or so much thereof as shall not have been directed to be set out for public purposes as aforesaid, among the persons interested therein, and to set out, divide and improve in such manner as hereinafter mentioned, so much thereof as shall have been directed to be set out for public purposes, and shall give notice of such meeting; and the persons or their agents present at the meeting, or the majority in number, and the majority in respect of interest, may appoint a Valuer; and in case the majority in number and the majority in respect of interest shall not agree upon the appointment, then the Commissioners shall appoint a Valuer.

53. Instructions to Valuer.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners or Assistant Commissioner for the purpose, the persons or their agents present at the meeting, or the majority in number and in value of interest, may resolve upon instructions to the Valuer, not inconsistent with the draft award, for the formation, alteration or improvement on the Land to be inclosed, of such private or occupation-roads and ways, common ponds, ditches, watercourses, embankments, tunnels, bridges and fences, or any of them, and for the adoption and use for the purposes of the Inclosure of a copy of any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners of the Land in question, or of any other map or plan of the accuracy of which they shall be satisfied, or for making any new survey, map or plan, and as to all other matters and things which may be proper to be done in the matter of the Inclosure,

and also for the raising and payment of all expenses incident to such Inclosure, either by sale of part of the Land proposed to be inclosed, or by such rate as hereinafter provided, as to the persons present at such meeting, or such majority as aforesaid, shall seem fit; or in case the majority in number and not less than *Four-fifths* in value of interest of the persons present at such meeting shall resolve on a sale of all the land proposed to be inclosed, except such part thereof as shall have been directed to be set out for public purposes, then it may be an instruction to the Valuer to proceed to such sale; and the majority in number and value as aforesaid may make any agreement with the Valuer for the payment of such Valuer for the duties to be performed by him under this Act; and all such instructions and such agreement (if any) shall be reduced into writing, and shall be sent by the Chairman of the meeting to the Office of the Commissioners; and it shall be lawful for the Commissioners, having regard to the protection of the rights of all persons interested in the Inclosure, to allow or disallow such instructions, in whole or in part, or to make such alterations therein or additions thereto, and to allow or disallow such agreement, as they shall think proper; and in case no instructions shall have been so agreed to, and sent to the Commissioners, or in case they shall disallow the instructions so agreed to and sent, it shall be lawful for the Commissioners to frame such instructions as they shall think proper; and in case no such agreement shall have been sent, or the agreement sent shall have been disallowed, it shall be lawful for the Commissioners to make such order for the payment of the Valuer as they shall think proper; and a copy, under the seal of the Commissioners of all such instructions as the same shall have been allowed, altered or framed as aforesaid, shall be delivered to the Valuer, with a copy of the draft award, and the Valuer shall in his proceedings in such Inclosure observe and obey the directions and declarations of such draft award and instructions respectively.

54. Form of Declaration by Valuer.

And be it Enacted, That no Valuer shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant Commissioner, Justice of the Peace, or Master Extraordinary in Chancery, the following Declaration; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, perform all the duties of a Valuer in the Inclosure of according to the provisions of an Act passed in the year of the reign of Queen Victoria, intituled "

Which Declaration it shall be lawful for the Commissioners or any Assistant Commissioner, Justice, or Master Extraordinary in Chancery, to administer; and every such Declaration so made and subscribed

scribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the Office of the Commissioners; and a certificate, under the seal of the Commissioners, that the person named in such certificate has been appointed a Valuer in the matter of an Inclosure, and has made and subscribed the Declaration required by this Act, shall be conclusive evidence of such appointment and of his having made and subscribed such Declaration.

55. Power to straighten Boundaries.

And be it Enacted, That for the purpose of shortening or rendering straight any boundary fences between the Land to be inclosed and any adjoining Lands, it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in such adjoining Lands, to set out and determine the boundaries between the Land to be inclosed and such adjoining Land, or to draw and define a new line of boundary, as he shall judge proper for the purposes aforesaid; and after such boundaries shall have been so set out and determined as aforesaid, or such new line of boundary drawn and defined, the same shall be made, fenced, ditched or mounded by such person, in such manner and at such times as the Valuer shall direct, and shall for ever thereafter be deemed the boundaries and limits of such respective Lands.

56. Power to Valuer to make Watercourses, &c.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure to set out and make such common ponds, ditches, watercourses, embankments, tunnels and bridges of such extent and form, and in such situations as he shall deem necessary, and as shall not be inconsistent with the draft award, in the Land to be inclosed, and also to enlarge, cleanse or alter the course of and improve any of the existing ditches or watercourses, embankments, tunnels or bridges, as well in and over the same Land, as also in any ancient Inclosures or other Lands in the parish or respective parishes in which the Land to be inclosed may be situate, as the Valuer shall deem necessary, making such satisfaction to the proprietors of such ancient Inclosures or Lands for the damage done thereby as the Valuer shall think just; and the expense of making and enlarging, altering and cleansing such ponds, ditches, watercourses, embankments, tunnels and bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised and paid in the same manner as the other expenses of the Inclosure; but all such ponds, ditches, watercourses, embankments, tunnels and bridges shall at all times afterwards be repaired, cleansed and maintained by such persons, and in such manner as the Valuer shall direct, provided that no watercourse be diverted or turned without the consent, in writing, of the person interested in the Land from which the same may be diverted,

and of the person interested in the Lands into which the same may be turned, or to the prejudice of any person interested in such water-course, except with his consent in writing.

57. Power to alter Roads and Ways.

And be it Enacted, That in the first place the Valuer acting in the matter of any Inclosure shall and may before he shall proceed to make any of the divisions and allotments of the Land to be inclosed, set out the public roads and ways through and over the said Land, and widen any of the public roads or ways which may pass through or over the said Land as by the draft award shall have been directed; and shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of such draft award, stop up, divert or alter any of the roads or ways passing through the Land to be inclosed, or through any old Inclosures in the parish or respective parishes in which the Land to be inclosed shall be situate; and the soil of such of the roads and ways so to be discontinued and stopped up as pass through the Lands to be inclosed, shall be deemed part of the Lands to be inclosed: Provided always, That nothing herein contained shall authorize the altering or diverting any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a public meeting called for that purpose, be first obtained: Provided always, That before any public road or way shall be discontinued, diverted, stopped up or altered by the Valuer acting in the matter of any Inclosure, the Valuer shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Valuer shall also cause the same notice to be given by advertisement for *Four* successive Weeks, and also on the church-door on the *Four* Sundays of the said *Four* successive Weeks; and after the said several notices shall have been so given, such road or way shall from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

58. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within *Four* Months after the first Sunday on which such notice shall have been given on the church-door of the intention that such road or way should be discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions for the county in which such road or way, or the greater part thereof, shall be situate, upon giving to the Valuer *Ten* Days' notice in writing of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such appeal, unless such notice and statement shall

shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

59. Trial of Appeal.

And be it Enacted, That in case of such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impannel a jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if after hearing the evidence produced before them the said jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the Appellant to the Valuer, and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said jury shall return a verdict that such road or way is not unnecessary, or that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be discontinued, stopped up, diverted or altered; or in case the same shall have been discontinued, stopped up, diverted or altered, the said Court shall make an order restoring the same to its original state, and shall award to the Appellant the costs of prosecuting such appeal, and such costs shall be paid by the said Valuer out of the monies to be raised for the expenses of the Inclosure.

60. Roads to be fenced.

And be it Enacted, That such public roads and ways so to be set out as aforesaid, shall be well and sufficiently fenced on both sides by such of the persons interested in the Land to be inclosed, and within such time as the Valuer acting in the matter of such Inclosure shall direct; and it shall not be lawful for any person to set up or erect any gate across any such road or way, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than *Fifty* Yards, and the Valuer shall form and complete such parts of the said public roads and ways as shall be newly made.

61. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, or the stopping up, discontinuing, diverting, widening or altering of such roads and ways, and the money compensation in respect thereof upon any Inclosure, shall be paid in such manner as the expenses of such Inclosure shall be directed to be paid.

62. Roads to be repaired by the Parish after certificate by Valuer.

And be it Enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the county in which the Lands to be inclosed shall be situate, shall certify any of the public carriage roads to be set out in pursuance of this Act on any Inclosure to be sufficiently formed and completed, such roads shall thenceforth be kept in repair by such persons and in such manner as the public roads within the said parish are or ought by law to be kept in repair; and every such certificate shall, at the Quarter Sessions of the Peace to be holden for the said county next after the date thereof, be filed of record by the Clerk of the Peace for the said county.

63. Private Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may set out such private or occupation-roads and ways through the Lands to be inclosed as he shall think requisite, for the use of the persons interested in such Lands, or any of them; and any expenses which the Valuer may incur relative to the setting out or formation or completion of such private roads and ways, or any of them, shall, unless the Valuer shall otherwise direct, be paid in the same manner as the other expenses of the Inclosure; and such expenses of the formation and completion of such private roads and ways as the Valuer shall direct, shall be borne by, and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expense of the owners and proprietors for the time being of the Land inclosed, or such of them, and in such shares and proportions, and in such manner, as the Valuer shall direct; and after such private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be for the use of such persons interested in the Lands to be inclosed as the Valuer shall direct; and in the absence of such direction, shall belong to the proprietors of the Land to be inclosed which shall next adjoin the said roads and ways on either side thereof as far as the crown of the road; and all private or occupation-roads or ways over, through and upon the Lands to be inclosed which shall not be set out as aforesaid, shall be for ever stopped up and extinguished.

64. Rights of Common may be suspended.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure at such time as he shall think proper, but with the approbation of the said Commissioners under their hands and seal, and before the making of the final award by notice on the church-door, to order all or any part of the rights of sheep-walk, common or other rights in or over the Land to be inclosed, or any part thereof, to be extinguished, or the exercise thereof to be suspended during such time as shall be expressed in such notice, and from the time mentioned in such notice such rights shall be extinguished or suspended accordingly; and if during the suspension or after the extinguishment of any

any such rights of sheep-walk, common or other rights as aforesaid, any person shall permit his horses, cattle, sheep or swine to go or depasture upon any of the Lands over which such rights shall be suspended or extinguished, it shall be lawful for the Valuer acting in the matter of the Inclosure, or any other person by his order (testified in writing under his hand), or any of the persons interested in such Lands or in the Inclosure thereof, to distrain such horses, cattle, sheep or swine being upon such Lands or grounds contrary to such order, and to impound the same until the person so offending shall pay to the person so distraining such sum of money as the Valuer shall, by writing under his hand, have previously ordered, not exceeding *Ten Shillings* for each horse or head of cattle, and *Five shillings* for each sheep or swine so distrained; and in case the same shall not be paid within *Seven* Days after the same shall have been impounded, the Valuer is hereby authorized, upon proof of such offence having been committed, and of non-payment of the penalty hereby imposed, to cause the horses, cattle, sheep or swine so distrained or impounded, or such of them as he shall think necessary, or any other goods or chattels of the person so offending, to be sold for raising and paying the penalty aforesaid, together with the costs and charges attending such distress, rendering the surplus (if any) to the owner of such horses, cattle, sheep or swine.

65. Course of Husbandry may be directed.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, at such time as he shall think fit, by notice on the church-door, to direct the course of husbandry and the stint or rule of stocking that shall be observed upon the Land to be inclosed until the time when the Inclosure thereof shall be completed, as well with respect to the laying down, ploughing, sowing, fallowing, manuring and tilling thereof, as to the stocking and feeding of the commonable Lands, and fallows or stubbles upon the same; and to direct such recompense to be made as he shall think right to any person injured by such directions, all which directions shall be binding upon all parties interested, their farmers and tenants; and the Valuer shall impose such pecuniary penalties on every person not conforming to such directions as he shall think necessary, not exceeding the sum of *Five Pounds* per acre in the case of cross-cropping, or withholding from the Land its due proportion of manure, or *Ten Pounds* in any other case, for any one offence; and shall also determine in all cases where the tenant is entitled by agreement or custom to the manure arising from the Lands in his occupation, by whom and in what sum of money such tenant shall be compensated for any such manure left or given up by him; and such penalties and other sums of money shall be recovered in the same manner as by this Act directed for the recovery of penalties.

66. Compensation for growing Crops.

And be it further Enacted, That the Valuer acting in the matter of any Inclosure shall, by writing under his hand, order what recompense in money shall be made to the owner of any crops growing, according to his agreement or lease, or according to the customary mode of cultivation within the parish in which the Land to be inclosed shall be situate, upon such Land at the time of the division, allotment and inclosure for the said crops, by the person to whom the Land on which such crops are growing shall be allotted; and also what recompense in money shall be paid, and by whom, to any tenant or occupier of Land, as well for the ploughing, tilling, cultivating, manuring or folding any Land to be inclosed for the benefit accruing thereby to the person to whom such Land shall be allotted, or for any loss or disadvantage which any tenant or occupier may sustain by the loss of his following or way-going crops upon the Land to be inclosed; and if in any of the said cases the money to be paid for such recompense be not paid at the time and in the manner ordered by the Valuer, then the same may be recovered by the person entitled thereto from the person liable to pay the same, in the same manner as penalties and forfeitures are recoverable under this Act.

67. Allotment for repair of Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall allot to the Surveyor for the time being of the parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, and to his successors for ever, such part of the Land proposed to be inclosed as by the draft award shall have been directed to be appropriated for supplying stone and other materials for the repairs of roads and ways as aforesaid; and such allotments shall be inclosed and fenced as the Valuer shall direct, and shall, from the confirmation of the award, be vested in the Surveyor of the Highways within the said parish for the time being, in trust for the purposes aforesaid; and the grass and herbage of such allotments shall belong to such persons as by the Valuer shall be directed; and if he shall make no such direction, then such Surveyor shall from time to time let the herbage for the most money that can be obtained for the same, and shall apply the rents and profits towards the repairs of the public roads or highways within the said parish; and the said Surveyor shall account for such rents and profits in the same manner as he is by law accountable for other monies that shall come to his hands in the capacity of Surveyor of the Highways, and shall be subject to the like penalties for the neglect thereof.

68. Allotments for public purposes.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot such part of the Lands to be inclosed as by such draft award shall have been directed to be appropriated as a place of exercise and recreation

recreation for the inhabitants of the said parish and neighbourhood; and such allotment shall be made and awarded to the Churchwardens and Overseers for the time being of the parish in which the same shall be situated, and shall be held by the Churchwardens and Overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced by the Valuer, the expense in such case to be considered part of the expenses of the Inclosure or by any person to whom adjoining Land shall be allotted; and the fences of such allotment shall for ever afterwards be repaired and maintained by such Churchwardens and Overseers, or by the Churchwardens and Overseers of the several parishes interested therein, in such proportions and manner as shall be directed by the Valuer out of the rents to be received for the herbage of the said allotment, or out of the poor-rate of the said parish or respective parishes or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the Churchwardens and Overseers, in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied, in the first place, in maintaining and repairing the fences of the said allotment, and subject thereto in aid of the rates for the repair of the public highways in the said parish or respective parishes; and the said Valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot for the other public purposes mentioned in such draft award such parts of the Land to be inclosed as shall have been directed by the draft award to be set apart for such purposes, and such allotments shall be made to such persons respectively as the Valuer, with the approbation of the Commissioners, shall direct; and in every case in which the Valuer, with such approbation of the Commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the Churchwardens and Overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the Churchwardens and Overseers under this Act, shall be held by the Churchwardens and Overseers of the poor for the time being in the same manner, and with the same legal powers and incidents, as if the same allotments were Lands belonging to the parish, but in trust, nevertheless, for the purposes for which the same shall be allotted as aforesaid, and subject to such directions for the fencing, management and use thereof as the Valuer, with the approbation of the Commissioners, may think fit.

69. Allotment to Lord.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the payment of the expenses by sale of Land in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall allot and award unto the Lord for the time being of the said

said Manor so much and such part of the Land proposed to be inclosed as shall in the judgment of the Valuer be equal (quantity and value considered) to such a part of the residue of such Land as shall be proportioned to his right or interest therein, according to the declaration of the draft award, in lieu of his right and interest in the soil of the said Land, exclusive of any other allotments which may be made to such Lord in lieu of or in satisfaction for any other rights or interests in such Land to which he may be entitled, and which shall have been separately mentioned and declared in such draft award.

70. Allotment of residue.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the expenses of the Inclosure by sale of Lands in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall divide, allot and award all the remainder of the Land to be inclosed unto and amongst the several persons who shall be interested therein, in such shares and proportions as he shall adjudge and determine to be proportionate to the value of the respective rights and interests which shall have been mentioned and declared in the draft award.

71. Separate Allotments to be made in respect of separate Titles.

And be it Enacted, That when any person to whom any allotment shall be made, or Land assigned in exchange by virtue of this Act, shall hold such Land, or the Land in respect of which such allotment or exchange is made under different titles or for different estates, and as to copyhold or customary Land by separate quit-rents, the Valuer in the matter of the Inclosure shall ascertain and distinguish the Land held for each of such estates and under each of such titles respectively, and shall accordingly set out distinct and several allotments for such respective Lands, and distinguish the several estates holden by several and distinct quit-rents.

72. Several Allotments may by consent be laid together.

And be it Enacted, That in case any number of the persons interested in the Land to be inclosed shall desire to have their allotments thrown together, and distinguished by metes and bounds, but not fenced from each other, and of such their desire shall give notice in writing to the Valuer acting in the Inclosure, such Valuer shall set out the several allotments of such persons so giving notice as aforesaid, by metes and bounds, but in one parcel of Land, and without requiring them to make any subdivision fences or other fences, save such ring or outer fences as may be necessary, or as the Valuer may direct to be made for dividing the said parcel of Land from the residue of the Land so to be inclosed.

73. Cultivated Land and Buildings to

Provided always, and be it Enacted, That it shall not be lawful for the said Valuer to allot to any other person than the proprietor thereof

thereof any Land which may be cultivated as orchard or garden, or on which any building may have been erected, or which may have been inclosed by virtue of any agreement between the proprietor thereof and the persons having right of Common over the same, without the consent in writing of such actual proprietor. be allotted to the Proprietor.

74. Regard to had to the situation of Homesteads.

And be it Enacted, That the Valuer in making the several allotments hereby directed, shall have due regard as well to the situation of the respective houses or homesteads of the persons interested in the Land to be inclosed as to the quantity and quality of the Land to be allotted to them respectively, so far as may be consistent with the general convenience of such persons; and that such Valuer in making the said Allotments shall have particular regard to the convenience of the persons interested in respect of the smallest estates in the Land subject to be inclosed under this Act.

75. Allotments to be fenced.

And be it Enacted, That the several allotments to be made, except the allotments to the Surveyor and Churchwardens and Overseers respectively, and the other allotments for public purposes, shall be inclosed, ditched and fenced at the expense of the respective persons to whom the same shall be allotted, in such manner and within such times as the Valuer shall direct; and the fences so to be made shall for ever afterwards be repaired and maintained by such persons as the Valuer shall direct; and if from the situation, or from any other circumstance, it shall happen that any person to whom any allotment shall be made, shall not have a fair proportion of the boundary, ditches or fences assigned to him to make, it shall be lawful for the Valuer, acting in the matter of any Inclosure, to ascertain and appoint what sum of money shall be contributed by such person towards making the boundary, ditches and fences of the allotments of such other persons as shall have assigned to them to make too great a proportion thereof; and such money shall be paid to such persons and in such manner as by the Valuer shall be directed, and the same may be recovered in the same manner as penalties or forfeitures are recoverable under this Act.

76. Allotments may be made to purchasers.

And be it Enacted, That if at any time before an allotment shall have been made by the Valuer, any person shall sell his right or interest in the Land to be inclosed or any part thereof to any person, the Valuer shall, upon such sale being certified to him in writing by the vendor, make an allotment of Land to the purchaser or to his heirs or assigns in respect of the right or interest so sold; and every such purchaser or his heirs or assigns shall from the confirmation of the final award hold and enjoy the Land so to be allotted to him in such manner as the vendor might or ought to have done, in case such sale had not been made; and it shall be lawful for any

person who shall be entitled to any allotment under this Act, to devise, convey, surrender or otherwise assure the same allotment or all or any part of his interest therein at any time before the confirmation of the final award; and every such devise, conveyance, surrender and assurance shall be of the same validity as if the same had been made after the confirmation of the said award; and it shall be lawful for any person entitled to any allotment to sell, dispose of or convey the estate in right of which he may be entitled to such allotment, separate from and retaining to himself such allotment, or the right thereto; and the Valuer is hereby required to award such allotment accordingly.

77. Allotments to be made to representatives of parties dying.

And be it Enacted, That if any person interested in any Inclosure under this Act shall die before the same shall have been completed, the powers and authorities hereby vested in the Commissioners, Assistant Commissioner and Valuer shall not be thereby determined or suspended, but they shall proceed in the execution of such powers and authorities in such manner as they might have done in case such person had not died; and the allotment which might have been made to the person so dying shall be made to such person as by the law shall become entitled to the same, and shall be accepted and fenced by such party according to the directions contained in the award of the Valuer, and he shall be liable to the charges and expenses and other conditions of the Inclosure.

78. Old Inclosures may be allotted with consent.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing and at the request of the person interested in any old inclosed Lands, or Lands holden in severalty, or otherwise not subject to be inclosed under the general provisions hereinbefore contained, to order and direct such old inclosed Lands or other Lands as last aforesaid, to be considered as allottable and parcel of the Land to be inclosed; and such allowance shall be made to the person interested in such Lands on account of the situation or other beneficial circumstances thereof as the Valuer shall adjudge to be just and reasonable; and he shall allot and award unto the person so interested in such old inclosed Lands, or other Lands as aforesaid, so much and such part of the Land to be inclosed as he shall think reasonable and just.

79. Partitions may be made.

And be it Enacted, That where any persons interested in Land to be inclosed under this Act shall be so interested in undivided moieties, or as joint tenants, coparceners or tenants in common, it shall be lawful for the Valuer, upon the request in writing of any of the persons so interested in undivided moieties, or as joint tenants, coparceners or tenants in common, to make partition and division of the Lands or allotments coming to such persons so interested, and to allot the same to such owners and proprietors in severalty; and immediately after

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the said allotments shall be so made and declared, the same shall be holden and enjoyed by the persons to whom the same shall be allotted in severalty, in the same manner and subject to the same uses and trusts as the undivided parts or shares of such estates would have been holden and enjoyed in case such partition and division had not been made; and every such partition shall be specified in the final award, and every such partition shall be good, valid and effectual to all intents and purposes whatsoever.

80. Costs of Partition.

And be it Enacted, That all costs and expenses attending any partition to be made by virtue of this Act, shall be borne and defrayed by the several proprietors of, or persons interested in, the estates which shall be so parted, in such manner and proportions as the Valuer shall order; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

81. Exchanges.

And be it Enacted, That it shall be lawful for the Valuer to allot and award any Land to be inclosed in exchange for any other Land within the parish in which the Land to be inclosed shall be situate, or any adjoining parish: Provided always, That all such exchanges be made with the consent in writing of the persons interested in the Lands so exchanged, and every such exchange so to be made shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be specified and declared in the final award: Provided nevertheless, That no exchange shall be made of any Lands held in right of any church or chapel or other ecclesiastical benefice without the consent, testified in writing, of the bishop of the diocese in which such Lands are situate: Provided also, That all costs and expenses attending the making and completing of any such exchanges shall be borne by the several parties making such exchanges, in such manner and in such proportions as the Valuer shall direct, and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

82. Wills and Settlements not to be affected.

And be it Enacted, That nothing in this Act contained shall extend to revoke, make void or alter any will, settlement, uses or trusts, or to prejudice any person having any right or claim of dower, jointure, annuity, portion, debt, charge, rent or incumbrance upon or affecting any of the Land to be inclosed, or which shall be exchanged or given in partition in pursuance of this Act; but as well the Land allotted as the Land which shall be assigned in exchange, partition, or as a compensation for any other estate or right by virtue of this Act, shall immediately after such allotment, exchange or partition, be and enure, and the several persons to whom the same shall be allotted or given in exchange or partition as aforesaid, shall

thenceforth stand and be seised and possessed thereof respectively to and for such and the same estates, uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances as the several Lands in respect whereof such allotments, exchanges and partitions shall have been made would have stood limited to and for, or been subject to, in case the same had not been allotted, exchanged or given in partition as aforesaid, and as if this Act had not been made, save and except such leases and tenancies at rack-rents as shall become void by virtue of this Act, and such rights of common and other rights as are intended to be extinguished by the Inclosure, and subject nevertheless to all such mortgages and sales as shall be made by authority of this Act.

83. Tenure of the Allotments.

And be it Enacted, That all such Land as shall be taken in exchange or on partition or be allotted by virtue of this Act, shall be held by the person to whom they are given in exchange or on partition or allotted, under the same tenures, rents, customs and services as the Land in respect of which such Land shall have been given in exchange or on partition or allotted, would have been held in case no such exchange, partition or inclosure had been made; and the Land taken in exchange or on partition or allotted in respect of freehold shall be deemed freehold, and the Land taken in exchange or on partition or allotted in respect of copyhold or customary Land, shall be deemed copyhold or customary Land, and shall be held of the Lord of the same Manor under the same rent and by the same customs and services as the copyhold or customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary Land in respect whereof such exchanges, partitions or allotments shall be made; and the Land given in exchange or on partition or allotted in respect of leasehold Land, shall in like manner be deemed leasehold, and shall be held under the same rents and covenants as the Land in respect of which it may have been allotted was held; and the remainder or reversion thereof shall be vested in the same lessor respectively as the remainder or reversion of such other Land was vested before the exchange, partition or allotment, except where otherwise particularly directed by this Act.

84. Leases at Rack-rent may be voided.

And be it Enacted, That immediately after the allotments herein directed to be made on any Inclosure shall have been marked and staked out, the Valuer acting in the matter of such Inclosure may direct the same to be entered upon by the persons respectively for whom the same shall be intended; and immediately after the Valuer shall so direct them to be entered upon, all leases, agreements and tenancies at rack-rent subsisting of any part of the Land to be inclosed, or which shall be exchanged in pursuance of this Act, or any common right thereon, shall,

shall, so far only as respects the Land to be divided and allotted or exchanged or common right, cease and be void at such time or times as the Valuer shall, by writing under his hand, direct or appoint, so as the respective lessors or landlords of such Land do, before or at the respective times at which such leases, agreements or tenancies shall be directed to cease, make and pay such satisfaction to the respective lessees or tenants for the loss which shall be sustained by the determination of such leases, agreements and tenancies respectively, so far as regards the Land or common right, the leases, agreements and tenancies whereof are hereby authorized to be determined as shall be mutually settled and agreed between them, or as the Valuer, being required by either of the parties, shall ascertain and direct; and the Valuer, being so required, is hereby empowered and directed, by writing under his hand, to apportion a reasonable and proportionable part, having regard to the season of the year, of the rent reserved on any such lease, agreement or tenancy for or in respect of the time which shall have elapsed between the last day on which any payment of the rent shall have become due and the determination of any such lease, agreement or tenancy, and such part of the rent shall be recoverable by such ways and means as may by law be used for the recovery of rent in arrear; and the Valuer is hereby empowered and directed, in every case where such Land or common right shall be held by virtue of any such lease, agreement or tenancy, together with other Lands or hereditaments, by one entire rent, by writing under his hand, to apportion and determine what part of such rent shall be deducted in respect of the Land or common right in such lease, agreement or tenancy comprised, as to which the same shall be determined as aforesaid, and from what time such deduction shall take place; and the rest of the rent reserved on any such lease, agreement or tenancy shall during the remainder of the term thereof be the rent of and for the residue of such Lands and hereditaments, and shall be payable and recoverable in like manner as the entire rent reserved by such lease, agreement or tenancy shall immediately before such apportionment be payable and recoverable; and the lessor or reversioner shall in respect of such apportioned rent, and in respect of the residue of such Lands and hereditaments, have the benefit and advantage of the provisoes and conditions which would have been applicable to the entire rent, and to all the Lands and hereditaments comprised in such lease, agreement or tenancy in case such lease, agreement or tenancy had not been determined as to any part of such Land.

85. Trees to be allotted with the Land.

And be it Enacted, That the timber-trees and other trees and underwood standing and growing upon any Land to be inclosed shall be allotted and go along with the Land whereon they respectively stand, and shall be deemed the property of the several persons to

whom the same Land shall be respectively allotted, such person paying to the owner of such trees and underwood such sums of money for the same, and at such time or times and place or places, as the Valuer shall by writing under his hand direct; but if the parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments to enter on the said Lands, and cut down, take and carry away to their own use the said trees and underwood in respect of which the said payments were respectively to be made to them at any seasonable time or times within *One Year* next after such neglect or default, doing as little damage on the Land as may be.

86. Cattle not to be depastured on Roads.

And be it Enacted, That no person shall graze or keep any horse, beast, cattle, sheep or swine upon any of the roads or ways which the Valuer shall order to be set out, and which shall be fenced on both sides for the space of *Seven* Years next after the execution of the final award; and every owner of Land to be inclosed, his servants and labourers, and also every peace officer and parish officer of the parish in which the Land shall be situate for the time being, is hereby empowered to take and impound any such horse, beast, cattle, sheep or swine which shall be found so grazing as aforesaid, as cattle damage feasant: Provided always, That nothing herein contained shall prevent the proprietors of the Land which shall next adjoin the private roads and ways from depasturing their cattle thereon, so far as the frontage of their respective Land extends.

87. Alteration may be made in Allotments.

And be it Enacted, That it shall be lawful for the Valuer acting in any Inclosure, at any time before the confirmation of the final award, with the approbation or by the direction of the Commissioners, to make any alterations which he may think right and expedient in the allotments or in the fences which he may have set out and ordered, or in the private roads he may have set out, or in any of the orders or directions relating thereto which he may have made in the matter of such Inclosure; and in case any person shall be injured by any such alteration on account of any expenses he may have incurred or otherwise, the Valuer shall ascertain and determine what recompense shall be made to him for such injury, and shall either pay the amount thereof out of the monies raised for the expense of the Inclosure, or shall direct by whom and in what manner such recompense shall be made; and in case of non-payment thereof, the same shall be recovered in the same manner as penalties and forfeitures are recoverable under this Act.

88. Application of Compensation Money of Parties under disabilities.

And be it Enacted, That when any money is under the provisions of this Act directed to be paid for the purchase of any Land, or

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of timber or wood growing on any Land, which shall belong to any tenant for life or in tail, or to any feoffee in trust, executor or administrator, husband, guardian, committee or trustee, for or on behalf of any infant, idiot, lunatic, feme covert or cestuique trust, or to any person whose Lands are limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, or to any corporation not being legally and equitably entitled to sell and dispose of such Land, timber and wood, it shall be lawful for the Valuer out of such money to defray the proportion (if any) of the Inclosure expenses which shall be charged upon any of the Lands of the respective parties in possession of the Land which shall be so purchased, or on which such timber or wood actually grew, and also to defray the expense of any permanent improvement, such as building, subdividing, dividing, draining or planting, and the like, which shall in the judgment of the Valuer be proper to be made, and shall be made under his direction upon any Land to be under the powers of this Act allotted to such parties.

89. Investment of Surplus when 200*l.* or upwards.

And be it Enacted, That if the surplus of any such monies shall amount to or exceed the sum of Two hundred Pounds, the same shall, with all convenient speed, be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there, exparte the Commissioners, pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and the Endorsements thereon, as likewise the Endorsements on South Sea Bonds;" and pursuant to the general rules and orders of the said Court, and without fee or reward, according to an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies not exceeding a Sum therein limited out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and shall, when so paid in, there remain until the same shall, by order of the said Court made upon a petition, in a summary way, by the parties who would have been entitled to the rents and profits of the said Land, be applied to the following purposes or any of them; (that is to say)

The redemption or discharge of the Land Tax, or of any debt or other incumbrance affecting the same Land, or affecting other Lands standing settled therewith, to the same or the like uses or trusts;

The purchase of other Land to be conveyed or settled upon the like uses or trusts, or such of them as shall be then existing, undetermined or capable of taking effect.

90. Payment of Dividends in the mean-while.

And be it Enacted, That in the mean time, and until such application shall be made, the said money may, by order of the said Court to be made upon the like petition, be invested by the said Accountant General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities, or of Government Securities; and the dividends or interest of such Annuities or Securities shall from time to time be paid by order of the said Court to the parties who would, for the time being, have been entitled to the rents and profits of the Lands so to be purchased, conveyed and settled.

91. Application of money under 200*l.*

And be it Enacted, That in case the surplus of such monies shall be less than the sum of Two hundred Pounds, and shall exceed or amount to the sum of Twenty Pounds, the same shall, at the option of the parties who for the time being would have been entitled to the rents and profits of the said Land, or their Guardians or Committees in case of infancy, idiocy, lunacy or other incapacity, with the approbation of the Commissioners, to be signified in writing under their seal, be paid into the Bank of England, in the name and with the privity of the said Accountant-General of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option and with the like approbation to Two Trustees, to be nominated by the said parties who for the time being would have been entitled to the rents and profits of the said Land as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands (or common seal, as the case may be) of the nominating parties, and under the seal of the Commissioners; and the money so paid to such Trustees, and the dividends and produce arising therefrom, shall be by them applied in like manner as is hereinbefore directed, with respect to money so to be paid into the Bank of England, but without obtaining or being required to obtain any order of the said Court touching the application thereof.

92. Under 20*l.*

And be it Enacted, That in case the surplus of such monies shall be less than Twenty Pounds, the same shall be paid to the parties for the time being entitled to the rents and profits of the said Land for their own use and benefit; or in case of infancy, idiocy, lunacy or other incapacity, then such money shall be paid to their Guardians, Committees or Trustees for the use and benefit of the parties respectively entitled thereto.

And

93. Report of the Valuer.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall as soon as conveniently may be, after the division and allotment of the Land to be inclosed shall be completed, draw up a report in writing, with a map thereunto annexed, which shall specify all the allotments, exchanges and partitions made in the matter of such Inclosure, and all roads, ways and works set out or directed to be made by the said Valuer; and such report shall contain all such particulars in relation to such allotments, roads, ways and works as are by this Act directed, and all such other directions and determinations authorized by this Act, as the said Valuer shall think proper for the purposes of the Inclosure; and the map to be annexed to such report shall comprise and show the Land to be inclosed and the Lands exchanged, and also the Lands in respect of which any allotments of the Land inclosed shall have been made, and shall distinguish by proper references the allotments made in respect of the several Lands respectively, and such other particulars as the Commissioners shall by any general or special instructions in relation to such report direct the Valuer to set forth therein; and such report shall be signed by the Valuer, and shall, together with the map thereunto annexed, be sent to the Office of the Commissioners.

94. Deposit of Report.

And be it Enacted, That as soon as the report of the Valuer shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited at some convenient place within the parish in which the Land to be inclosed or some part thereof shall be situate, for the inspection of all persons interested in such Land; and shall forthwith cause notice to be given in such manner as to them shall seem fit, where the said copy may be inspected; and shall also in such notice appoint some convenient place, and such times as they shall think necessary (the first not earlier than *Twenty-one* Days from the first giving of such notice), for holding a meeting to hear objections to any allotment, direction, determination or matter in the report; and the Commissioners or some Assistant Commissioner at such meeting as aforesaid, shall hear and determine any objections which may be then and there made to any such allotment, direction, determination or matter by any person interested therein, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting; and may, if they or he shall see occasion, direct any further valuation or survey of the Land or any part thereof, and take such other measures for ascertaining the justice and propriety of the determinations and directions of the Valuer, as to the Commissioners or Assistant Commissioner shall seem proper; and from time to time, if they or he shall see occasion, fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed, with regard to the original meeting; and when the said Commissioners

sioners or Assistant Commissioner shall have heard and determined all such objections, and made such inquiries as the Commissioners shall think fit in relation thereto, the Commissioners shall approve such report, or cause the allotments, directions, determinations and matters therein mentioned, or any of them, to be amended as they shall see occasion.

95. Final Award.

And be it Enacted, That after such proceedings as aforesaid shall have been had, and all such objections to such report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions and matters therein contained as aforesaid, the Commissioners shall cause to be drawn up and engrossed on parchment the final award in the matter of such Inclosure, which shall contain or set forth the draft award in the matter of such Inclosure, and also such report if so approved as aforesaid, or the allotments, exchanges, directions and matters therein contained as the same shall have been amended as aforesaid, and shall annex to such engrossment the map referred to by such report as aforesaid; and shall confirm such final award, with the date of such confirmation thereunto annexed, under the hands and seal of the Commissioners.

96. Final Award conclusive.

And be it Enacted, That such confirmation as aforesaid shall be conclusive evidence that all the directions of this Act in relation to such final award, and to every allotment, exchange, partition and matter therein set forth and contained, which ought to have been obeyed and performed previously to such confirmation, shall have been obeyed and performed; and no such final award shall be impeached by reason of any mistake or informality therein, or in any proceeding relating thereunto, or on account of any want of any consents required by this Act, or on account of defects or omissions in any previous proceeding whatever in the matter of the Inclosure; and every allotment, exchange, partition, direction, matter and thing specified and set forth in such final award as aforesaid, shall be binding and conclusive on all persons whomsoever.

97. Allotments to be in compensation of previous rights.

And be it Enacted, That the several allotments which shall upon any Inclosure under this Act be allotted to the several persons who shall be entitled to the same, shall when so allotted be and be taken to be in full bar of and satisfaction and compensation for their several and respective Lands, rights of Common, and all other rights and properties whatsoever which they respectively had or were entitled to in and over the said Lands immediately before such Inclosure; and that from and immediately after the confirmation of the final award by the Commissioners, or at such earlier time as the Valuer, with the approbation of the Commissioners, shall by notice on the church-door direct, all rights of Common, and all rights whatever by the Inclosure intended

intended to be extinguished, belonging to or claimed by any person whomsoever in or upon such Lands, shall cease, determine and be for ever extinguished.

98. Allotments may be sub-divided by supplemental order.

Provided always, and be it Enacted, That when any final award so confirmed as aforesaid shall not have distinguished the several tenures of any of the Lands therein mentioned, or the different estates or titles for or under which the same shall be held, or shall have set out and awarded an aggregate allotment in any case in which there should have been set out and awarded several and distinct allotments, it shall be lawful for the Commissioners at any time within Twelve Months after the confirmation of the award, upon request in writing to them made by any person interested in any such aggregate allotment, to do all such acts as may be necessary for supplying such omission, and for subdividing such aggregate allotment, and for that purpose to examine witnesses, and proceed as if the said award had not been confirmed; and by any order or instrument under their hands and seal, to subdivide any aggregate allotment into separate allotments, and to distinguish and set out the allotments and Lands held by different tenures, and also the allotments and Lands held by, for or under different estates or titles respectively, in the same manner as by this Act is authorized and required to be done in cases where such allotments and Lands are directed to be ascertained, distinguished and set out by the Valuer; and every such separate instrument shall have the same power and effect as if it were contained in the said award; and such instrument shall be engrossed and deposited with the final award, and shall thenceforth be deemed to be part thereof to all intents and purposes; and all the expenses which shall be reasonably incurred in or about any such subsequent inquiry or separate instrument as aforesaid, and the engrossment thereof, shall be paid by the party who shall have requested the Commissioners to make and execute the same, or by his executors or administrators.

99. Regulated Pastures may be set out.

And be it Enacted, That it shall be lawful for the Commissioners acting in the matter of any Inclosure, on the application in writing of persons interested in any Land subject to be inclosed under this Act whose interest shall exceed in value *One-half* of the whole interest in such Land (such application to be made at any time before the instructions to the Valuer shall have been delivered to him by the Commissioners under the provisions hereinbefore contained), to direct such Land or any part thereof to be converted into and used as a regulated pasture, to be stocked and depastured in common by the persons interested therein in proportion to their respective rights and interests, as the same shall have been or shall be determined by such draft award as aforesaid; and in case part of such Land only shall be

so directed to be stocked and depastured in common, the Valuer shall, subject to the instructions which shall be given to him under the provisions of this Act, ascertain and set out the part which shall be so used as a regulated pasture, and shall direct how and at whose expense the same shall be fenced and divided from the residue of such Land; and the Valuer acting in the matter of such Inclosure shall in every case where Land shall be so directed to be used as a regulated pasture, ascertain and allot the respective stints or rights of pasturage (specifying the respective numbers of the respective kinds of stock or animals to be admitted to the pasture in respect of such respective stints or rights of pasturage, with such option as to equivalent numbers of the respective kinds of stock and animals as he shall think just, and if he shall think fit, specifying the time during which such stock or animals may be kept on the pasture), as he shall adjudge and determine to be proportionate to the value of the respective rights and interests of the persons interested as aforesaid, which shall have been mentioned and declared in the draft award; and the Commissioners shall frame such directions as they shall think fit for guiding the Valuer in the correct specification of such stints or rights: Provided always, That in every case in which part only of the Land subject to be inclosed under this Act shall be so directed to be used as a regulated pasture, and the residue thereof to be divided and allotted in severalty, it shall be lawful for such Valuer, having regard to the convenience of the persons interested in such Land, to award to any person whose right and interest shall have been mentioned and declared in the draft award, either a stint or right of pasture, or an allotment in severalty only, or both a stint or right of pasture and an allotment in severalty, so as such stint or right only or such allotment only, or (as the case may be) such stint or right and allotment together, be in the judgment of the Valuer proportionate to the right and interest in respect of which the same shall be awarded: Provided also, That in any case in which it shall appear to the Valuer that the proportionate right or interest of any person is too small to be conveniently compensated by a stint or right of pasture, or that it is not practicable wholly to compensate such person by a stint or right of pasture, and the circumstances of the Inclosure will not admit, in the judgment of the Valuer, of an adjustment or compensation by an allotment in severalty, it shall be lawful for such Valuer, for the purpose of compensation or adjustment, to direct a sum of money to be paid to such person in lieu of or (as the case may require) in addition to the award of a right of pasture or stint; and such sum of money shall be paid out of the monies applicable to the payment of the expenses of the Inclosure.

100. Conversion into regulated Pasture to be deemed an Inclosure.

And be it Enacted, That all the provisions and powers hereinbefore contained in relation to public and private roads, ways and works, and all

all other the powers, provisions and directions, penalties and forfeitures applicable to the case of an Inclosure under this Act, and the provisions and directions concerning the report of the Valuer and the approval thereof, and the amendment of the matter thereof, and the final award and the confirmation thereof and the effect thereof, shall be applicable to the case where the Land subject to be inclosed shall be directed to be used as a regulated pasture; and the word "Inclosure" shall in every case in this Act, where the context is not repugnant to such construction, include the conversion of Land subject to be inclosed into such regulated pasture, and the proceedings in relation thereto.

101. Rule of Rating to be established.

And be it Enacted, That in every case in which Land shall be directed to be converted into and used as regulated pasture under this Act, the Valuer acting in the matter of the Inclosure shall determine and direct the proportionate shares or aliquot parts which the respective owners, for the time being, of the several stints or rights of pasture shall be liable to pay of any sum of money which shall be raised by way of rate on such owners under the provisions of this Act; and such determination and direction, in case the same shall be approved, or as the same may be amended by the Commissioners, shall be for ever after observed in every rate to be made under the provisions of this Act, and shall be the rule also, according to which the proportionate values of the stints shall be determined in taking the votes of the owners of stints under the provisions hereinafter contained.

102. Property of Soil of regulated Pastures.

And be it Enacted, That the right of soil of and in all Land which shall be converted into regulated pastures, shall, subject to the rights given by this Act and the final award in the matter of such Inclosure, be vested in the persons who, under the directions and determinations of such final award, shall be the owners of the stints or rights of pasture therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act as tenants in common.

103. Election of Field reeves.

And be it Enacted, That where any Land shall have been converted into a regulated pasture under the provisions of this Act, a meeting shall be called by the Commissioners of the owners of the stints or rights of pasture at such time after the confirmation of the final award as the Commissioners shall, by notice on the church-door, appoint; and the major part in value of such owners present at such meeting shall elect a fit person or persons to be field reeve or reeves of such regulated pasture, and every field reeve so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of *Fifteen* Days after the day of the annual meeting of such owners then next following, and no longer,

longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a field reeve or reeves on the First Monday in February in every year, and the owners assembled at such meetings shall from time to time fix, increase or diminish the salary or payment to be made to every such field reeve, and may appoint or authorize any field reeve to appoint and employ herds and assistants as such owners may think fit; and any such field reeve may be removed by Four-fifths in value of the owners of stints present at any meeting called for the purpose by *Fourteen* days' notice on the church door, under the hands and seals of any Two Justices of the Peace; and in case any such field reeve shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of stints or pastures present at any meeting, which upon such vacancy any Two owners may call, by *Fourteen* days' notice on the church-door, to appoint a field reeve in his place, who shall hold the office until the expiration of *Fifteen* Days after the then next annual meeting; and a certificate in writing, under the hands and seals of Two Justices of the Peace of the election of any field reeve (which certificate any Two Justices of the Peace are authorized, if they think fit, to give on the request and upon the declaration of any owner of such stints present at the meeting at which the election shall have taken place), shall in all matters and proceedings whatsoever, in which any acts done by any field reeve in the execution of his office shall be in question, be evidence that he was duly appointed field reeve.

104. Duties of Field reeves.

And be it Enacted, That the field reeve or reeves for the time being of every such regulated pasture shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such stints as aforesaid, at their yearly meetings, regulate the times in each year during which stock or animals shall be admitted to and excluded from such regulated pasture, and shall maintain and keep in order the fences, gates, ditches, drains, watercourses, embankments, jetties and weirs, or make any new fences, gates, ditches, drains, watercourses, embankments, jetties or weirs, and do all works necessary for the maintenance and improvement and good order of such regulated pasture; and shall and may distrain all stock and animals found thereon, contrary to the regulations of such pasture, and do all other acts for the maintenance and improvement of such regulated pasture, and the convenient use and occupation thereof, as the field reeve or reeves, subject to such instructions as aforesaid, may think fit; and where there shall be any buildings on such regulated pasture, or where the majority in value of the owners of stints at any yearly meeting shall direct that any buildings be erected thereon, such field reeve or reeves shall or may maintain and keep in repair such buildings, or cause such buildings to be erected in pursuance of

such

such direction, and let the same from year to year, or under such instructions as aforesaid, for any term of years, and shall receive the rents thereof; and such rents shall be applicable in the first place to the same purposes as the rates hereinafter authorized to be raised on the owners of stints are made applicable, and the residue (if any) shall be paid to the owners of stints in proportion to the respective liability of their stints to such rates.

105. Provision for rateable increase or diminution of rights.

And be it Enacted, That when it shall appear to the majority in value of the owners of stints present at any annual meeting that the condition of the pasture would admit of an increase of the respective rights of pasture thereon, or would require a diminution of such respective rights, it shall be lawful for such majority of the owners so present to direct that the respective number of stock or animals to be admitted to the pasture in respect of the several rights be increased, or, as the case may be, diminished, rateably, to such extent as they shall think fit: Provided always, That in case it shall happen that the right of any such owner shall not be sufficient to admit of a rateable increase or diminution, such annual money-payment shall be made to such owner in lieu of increase of his right, or, as the case may be, charged on such owner in lieu of the diminution of his right, as such majority shall award; or in case the person to or on whom such money-payment shall be awarded or charged shall think the sum awarded insufficient, or the sum charged excessive, then as any Two Justices of the Peace shall, upon the complaint of such person, and after summons of the field reeve or one of the field reeves of such pasture, which may be in the form in the Schedule to this Act, and on hearing in a summary way the matter in difference, think reasonable, and order to be paid, and such order may be in the form in the Schedule to this Act; and every such money-payment payable in lieu of increase of right shall be paid annually by the field reeve out of the monies raised by the rate made for the expenses of such regulated pasture; and the money charged on any such owner shall be recoverable as a rate on owners of stints is hereby made recoverable.

106. Expenses to be raised by Rate.

And be it Enacted, That all salaries and allowances to field reeves and other persons and all other expenses in and about the management of every such regulated pasture, and the repairs and erection of buildings thereon, under the directions of such meetings of owners as aforesaid, and all other expenses of such regulated pasture, shall be paid and defrayed by the owners of the respective stints therein; and for that purpose it shall be lawful for the field reeve, under the directions of any such meeting of owners, from time to time to make a rate on the respective owners for such sum as the majority of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the rule of rating established

for such regulated pasture, and shall be paid to the field reeve on demand thereof; and in case the same shall not be paid within *Fourteen* Days after demand thereof, shall be recoverable by distress; and it shall be lawful for the field reeve to exclude from such regulated pasture the stock or animals of any owner or his tenant whose proportion of the rate shall be in arrear and unpaid for *Fourteen* Days after demand thereof, until the proportion of such rate so in arrear shall be fully paid; and any such demand or distress may be made of or on the occupier of any such stint as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof, and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

107. Power to apply the Act to Pastures already stinted.

And be it Enacted, That where any Land shall be already occupied as a gated or stinted pasture, and any of the persons interested in such gated or stinted pasture, whose interests shall not be less in value than *Two-thirds* of the whole interest, shall be desirous that such gated or stinted pasture should be subject to the provisions of this Act concerning regulated pastures, without being subject to the other provisions concerning lands subject to be inclosed under this Act, and shall make application in writing to the Commissioners to take proceedings for that purpose, it shall be lawful for the Commissioners, or an Assistant Commissioner, to make such inquiries as may appear necessary to the Commissioners, to ascertain the proportionate rights and interests of the several persons interested in such gated or stinted pasture, and shall frame, or cause to be framed, a draft award containing a declaration of the proportionate rights of such persons so interested; and shall also cause to be ascertained by any Valuer to be appointed or approved by the Commissioners for that purpose, the respective rights of pasture to which, having reference to the productiveness of such gated or stinted pasture, the several persons interested therein may, in the judgment of such Valuer, be entitled, together with such declaration as hereinbefore mentioned as to the proportionate liability to rates under this Act, of the occupiers of stints or rights of pasture, and in like manner as in case of the conversion into regulated pasture of Land subject to be inclosed upon an Inclosure under this Act; and the Commissioners shall hear, or cause to be heard by an Assistant Commissioner any objections to the draft award and to the report of the Valuer respectively, and approve or amend the draft award and such report respectively, as they shall think fit; and the Commissioners shall frame and cause to be engrossed a final award, setting forth such draft award and the matter of such report respectively, and shall confirm the same, with the date of the confirmation under their hands and seal; and from and after the confirmation of such award, such gated and stinted pasture shall be subject to all the provisions herein contained concerning Land

subject

subject to be inclosed, converted into and used as regulated pasture, and shall be rateable under such provisions according to the rule of rating as set forth in such final award, and such final award shall be as binding and conclusive as if the same had been made and confirmed on an Inclosure under this Act.

108. Expenses of application of Act to Pastures already stinted.

And be it Enacted, That all the expenses of or attending the proceedings for subjecting Lands already used as gated or stinted pasture, to the provisions of this Act, concerning Lands subject to be inclosed, converted into or used as regulated pasture, shall be paid and borne by the persons interested therein, in proportion to their respective liabilities to rates under this Act, according to the rule of rating established in respect of such gated or stinted pasture under this Act; and shall be paid at such time and place, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and shall be recoverable in such and the same manner as the expense of an Inclosure made in pursuance of this Act.

109. Power to enter Land for Surveys, &c.

And be it Enacted, That for surveying and valuing any Land to be inclosed or otherwise dealt with under this Act, and for the other purposes of this Act, it shall be lawful for the Commissioners or an Assistant Commissioner or Valuer, or any person or persons to be appointed by such Commissioners, Assistant Commissioner or Valuer to make any survey, admeasurement, plan or valuation with assistants and servants, and at any time or times whatsoever, until the Inclosure or other proceedings under this Act shall be completed, to enter into, view and examine, survey or admeasure all and every part of the Land to be inclosed or dealt with, and also any Lands necessary or proper to be surveyed or valued for the purposes of such Inclosure, and to do or cause to be done any act or thing necessary for putting this Act into execution.

110. Expenses of Inclosures.

And be it Enacted, That the allowances and payments to be made to and by the Valuer, and all other the expense of every Inclosure, except the allowances and salaries to the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers of the Commissioners, and the travelling and other expenses of the Commissioners and Assistant Commissioners, and except any expenses which the Commissioners or Assistant Commissioner, or any court under the powers of this Act have ordered to be otherwise paid, shall be borne and defrayed by the several persons interested in the Lands to be inclosed (except the Surveyors of Highways, Churchwardens and Overseers and persons to whom Lands shall be allotted for public purposes, in respect of the allotments hereinbefore authorized or directed to be made to them respectively), in such shares and proportions,

portions, and shall be paid at such time and place, or respective times and places, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and such Valuer shall give notice requiring payment of the respective shares and proportions of such expenses on the church-door, or deliver to the respective persons liable to the payment of such expenses, at least *Fourteen* Days before the time appointed for such payment, a copy of such order; and the Valuer shall from time to time make estimates of all such expenses, and raise the amount of such estimates at such times as he shall, with such approbation of the Commissioners, deem proper, either before or after the confirmation of the final award.

111. Remedies in case of non-payment of Expenses.

And be it Enacted, That if any person shall refuse or neglect to pay his proportion of such expenses within the time and to such person as the Valuer shall appoint, it shall be lawful for the Valuer to recover the same, together with lawful interest, to be computed from the day on which the same ought to have been paid, by action at law in his own name, in any of Her Majesty's Courts of Record at Westminster; or it shall be lawful for him by warrant directed to any person whomsoever, to cause the same, with such interest thereon as aforesaid, to be levied by distress, or it shall be lawful for the Valuer, or any person authorized by him immediately after such neglect or refusal, to enter into and upon the premises so to be allotted to such person, and demise the same, or to demise any stint or right of pasture allotted to such person, and receive the rents and profits thereof respectively, until thereby or otherwise such share or proportion, with lawful interest as aforesaid, and also all the costs and expenses attending such entry upon, and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied.

112. Power to make additional Rate.

Provided always, and be it Enacted, That if at any time after the allotments shall have been staked out it shall appear to the Valuer, either before or after the confirmation of the final award, that the money to arise by any previous rates shall not be sufficient to defray the expenses aforesaid, the deficiency shall, with such approbation of the Commissioners as aforesaid, be made up and raised from time to time by a rate to be made and levied upon the several persons interested in the Lands to be inclosed (except as aforesaid), in such shares and proportions, within such time, and to be paid to such persons as the Valuer shall from time to time direct; and in case any persons hereinbefore made subject to the payment of any money towards such expenses shall neglect or refuse to pay his share or proportion of any such rate within the time appointed for that purpose, or at any time after such demand, the same shall be levied and recovered in the manner directed by this Act with respect to the previous rate.

And

113. Commissioners may remove Valuers.

And be it Enacted, That if any Valuer chosen or appointed to act in the matter of any Inclosure or other matter under this Act shall, before his duties shall be fully performed, refuse to attend to or become by sickness or otherwise incapable to act in such matter, or shall in the judgment of the Commissioners neglect his duties, or misconduct himself in his office, or become incapable or unfit to act as a Valuer under this Act, it shall be lawful for the Commissioners, by order under their hands and seal, to remove him from the office of Valuer; and if any Valuer shall be so removed, or shall die, it shall be lawful for the Commissioners, by order under their seal, to appoint a Valuer in his stead; and the Valuer so appointed shall have the same powers as if he had been chosen at a meeting of the persons interested in the Land in the manner hereinbefore directed.

114. Repayment to Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour of the Commissioners or Assistant Commissioner in or about any Inclosure, exchange, division, partition or other proceeding under this Act, by any order under their hands and seal, to order and declare that a sum, in such order to be mentioned, be paid to the Commissioners in respect of the proportion of the general expenses of the Commissioners which ought to be borne in respect of such Inclosure, exchange, division, partition or other proceeding; and the Commissioners shall by such order declare such sum to be charged on the persons interested in the Land to be inclosed, or to which such proceeding shall relate, in such shares as they shall think just, and shall appoint a time for payment thereof; and the same shall be raised in the same manner as the expenses of the Inclosure, or of subjecting the Land to the provisions concerning regulated pasture, are directed to be raised under this Act, and be deemed part of the expenses of the Inclosure or matter aforesaid, or in the case of an exchange, division or partition, in the same manner as the expenses of such exchange, division or partition, and when raised shall be paid to the Commissioners, who shall forthwith pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund.

115. Persons attending Meetings to pay their own Expenses.

Provided always, and be it Enacted, That the several persons interested in the Inclosure or other proceeding under this Act, and their respective agents, shall pay their own expenses whenever they shall attend any of the meetings to be held in the matter of any Inclosure.

116. Expenses of Witnesses.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof, and all other expenses, (except the salary or allowance to any Assistant Commissioner) incurred in the settlement of any

suit or difference, or in the hearing and determining any objection to any award or apportionment before the said Commissioners, or any Assistant Commissioner, to be paid by such parties interested in the production thereof respectively; or in the event of such suit, difference or objections, and in such proportions as the Commissioners or Assistant Commissioner shall think fit and reasonable.

117. Power to mortgage Allotments.

And be it Enacted, That it shall be lawful for the respective persons interested in allotments in severalty, allotments of stints or rights of pasture respectively, to be made under this Act, being tenants for life or in tail, or for any other estate of freehold or inheritance, and also for the husbands, guardians, trustees, committees or attornies of any of the proprietors being under coverture, infants, lunatics, idiots, or otherwise incapacitated or beyond the seas, and for the trustees or feoffees for charitable, parochial or other uses, or a competent number of them in respect of any Lands held by them in trust for any charitable, parochial or other uses (with the consent of the Commissioners testified in writing under their hands and seal), from time to time to charge their respective allotments with any money not exceeding as to any allotment in severalty *Five Pounds* per acre, towards their respective proportions of the Inclosure expenses, and for securing the repayment of such money with interest to mortgage or demise the said allotments unto or in trust for any person who shall advance any money for any term of years, but so that every such mortgage or demise be made with a condition to cease, or upon trust to be surrendered or assigned when the money thereby to be secured, with all interest thereon, shall have been fully paid; and so that in every such mortgage or demise which shall be made by or on behalf of any person entitled to any such allotment for the term of his natural life, there be contained a covenant to pay and keep down the interest of the money to be secured during his life, in such manner that no person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger arrear of interest than for *Six* Months previous to the time when the title of such person shall accrue or commence; and every such mortgage or demise shall be valid in the law for the purposes thereby intended; and every such mortgagee and his assigns shall have the like remedies in case of non-payment of the monies thereby secured, as in the case of other mortgages of the like nature.

118. Power to sell parts of Allotments.

And be it Enacted, That it shall be lawful for the Commissioners on application made to them in writing by any of the proprietors of allotments to be made by virtue of this Act, or by any of the husbands, guardians, trustees, committees or attornies of or for any of such proprietors being under coverture, minors, idiots, lunatics, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, or by any of the said proprietors being tenants in tail, or for life

or

or lives, or on any other contingency, or by any other trustees or feoffees for charitable, parochial or other uses, direct a sale of any part of any such allotment for raising a sum of money sufficient to defray the proportionable part of the expenses which shall in such rates be charged upon such parties, and of the expenses of making and completing such sale: Provided always, That it shall not be lawful for any proprietor of an allotment in severalty to raise by any such sale, or by mortgage and sale, any greater sum of money for the purposes aforesaid than such proprietor might have borrowed or charged upon his allotment for such purposes by virtue of this Act, reckoning *Five Pounds* for each acre thereof: Provided also, That in all cases in which the money so raised by any such sale shall not be equal to the money which might be borrowed or charged on such allotment as aforesaid, it shall be lawful for the proprietor, part of whose allotment shall be sold as aforesaid, to charge his allotment with any sum not exceeding the difference.

119. Sales of parts of Allotments how to be made.

And be it Enacted, That such sales shall be made by the Valuer, with the approbation of the Commissioners in the same manner and subject to the same regulations as are hereinafter prescribed in respect of the sale of part of the Land subject to be inclosed towards defraying the expenses of the Inclosure; and every part of allotment for which the full purchase-money shall be paid, shall be conveyed by the Commissioners at the expense of the purchaser as he shall appoint, and shall be inclosed and held by such purchaser in severalty: Provided always, That nothing herein contained shall enable the Commissioners to convey any allotments set out by them as copyhold or customary as freehold, but such copyhold or customary allotments shall be held by the purchaser thereof by, under and subject to the same rents, suits and services as such allotment would have been held, in case no such sale had been made.

120. Commissioners to receive and apply Purchase-money.

And be it Enacted, That the receipt of the Commissioners shall be a sufficient discharge to the purchaser for the said purchase-money; and such purchase-money shall be applied by the Commissioners in or towards defraying the costs and expenses for raising which such sale shall have been made; and the surplus (if any) shall be paid to the parties from whose allotments such sale shall have been so made respectively; and the shares of such of them as shall be tenants in fee-simple shall be paid to them respectively, and the shares of the other proprietors of such surplus money shall be applied and disposed of in manner by this Act directed, with respect to money to be paid into the Bank of England, for the purchase of any Lands, or of any timber, trees or underwood growing thereon.

121. Sale of Land by Valuer for Expenses.

Provided always, and be it Enacted, That in case the Valuer acting in the matter of any Inclosure shall under the instructions of any meeting

meeting of the persons interested in the Lands to be inclosed, or of the Commissioners, think proper to raise all or any part of the expenses of the Inclosure by sale of part of the Land proposed to be inclosed, such Valuer shall set out such parts of the Land to be inclosed as he shall judge sufficient in value to defray the expenses aforesaid, and shall from time to time, as he shall find expedient, sell and dispose of the same by public auction or by private contract, with the approbation of the Commissioners; and the purchase-monies to arise by such sales shall be paid into the hands of the Commissioners, or as they shall direct, and shall be by them applied in discharging the said expenses.

122. Conveyances to be made by Commissioners.

And be it Enacted, That upon every sale to be made by the Valuer under the provisions of this Act, the Commissioners shall sign and deliver to each purchaser a receipt for his purchase-money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase-money for any of the Lands which shall be sold as aforesaid, the Commissioners shall convey such Lands and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal to such uses, trusts, and in such manner as such purchaser shall direct; and after such conveyance, the premises conveyed shall be freehold of inheritance, and shall be held to the uses and on the trusts expressed by such conveyance; and any such conveyance may be to the effect set forth in the Schedule to this Act.

123. Application of purchase-monies.

And be it Enacted, That all such purchase-monies as shall be from time to time raised or received by the Commissioners by such respective sales as aforesaid, shall after payment of the charges and expenses attending such respective sales, be paid and applied by the Commissioners towards the expenses of the Inclosure; and the respective purchasers or other persons paying the same, shall not in any manner be liable to see to the application, or be answerable for any misapplication thereof.

124. Power to sell instead of allotting Land.

And be it Enacted, That when under such instructions as hereinbefore required in that behalf, the Valuer shall have been directed to sell the whole of any Land proposed to be inclosed under this Act, except the part thereof directed to be appropriated for public purposes, the Valuer shall and may sell and dispose of the whole of such Land, except as aforesaid; and such sale, and the conveyance thereof to the purchasers, shall be made in all respects in the same manner as hereinbefore directed with respect to the sale of part of the Land proposed to be inclosed for payment of expenses; and the Commissioners shall in like manner receive the purchase-money to arise from such sales, and their receipt shall in like manner be a sufficient discharge to the purchaser for the same; and the Commissioners shall invest such purchase-money, after payment thereout of the expenses

of

of the sale and of the Inclosure in the name of any corporation as Trustees, or in the names of Three or more Trustees, to be named or approved by the Commissioners for that purpose, in the purchase of Three Pounds per Centum Consolidated Bank Annuities, or Three Pounds per Centum Reduced Bank Annuities, and shall in and by the final award apportion and declare the shares of and in such annuities to which the several persons interested in the Land from the sale whereof the same shall have arisen shall be entitled, and in respect of what Lands or Estates they shall be entitled in such manner as hereinbefore directed in case of allotments of Lands by the Valuer, or as near thereto as circumstances will admit; and shall also direct and declare that the dividends accruing from time to time in respect of such annuities, or the respective shares thereof, shall be applicable and applied by the Trustees to the payment of quit-rents, land-tax, or any other rent, tax, rate or annual charge, charged or to become charged upon any Lands remaining unsold, in respect of which the persons so declared entitled shall have been respectively declared to be entitled to such shares; and the residue, if any, of the dividends in respect of such shares shall be payable in the same manner as the rents of such Land would from time to time be payable; and in case any person so declared entitled shall not be entitled in respect of any Land remaining unsold, the dividends in respect of the share of such person in such annuities shall belong to the persons who, for the time being, would have been entitled to the Land or right in respect of which such share of annuities shall have been allotted, in case the same had not been sold or extinguished; and such shares shall be considered in equity as real estate, and be transmissible accordingly: Provided always, That where it shall be shown to the satisfaction of the Trustees or Trustee for the time being of such annuities, that any person shall be entitled to or shall have acquired an absolute interest in any share thereof, such share may be transferred to such person, or as he may direct; and in such final award shall be contained such powers for the appointment of new Trustees from time to time, by such persons, and in such manner, and such directions for the indemnity and security of the Trustees, and for defraying out of the investment the expenses of the execution of the trust, as the Commissioners shall think fit.

125. Notice may be given to reversioners.

And be it Enacted, That the Commissioners, before approving any draft award or report, or in any other stage of the proceedings on any Inclosure, or of the proceedings for subjecting any gated or stinted pasture to the provisions of this Act, concerning regulated pastures, if they shall see occasion, may require notice to be given in any such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any Lands, or to any

other person to whom they may think notice ought to be given; and may by themselves, or by some Assistant Commissioner, hear and determine any objection which may be made by the person so next in remainder, reversion or expectancy.

126. Copies of Award to be made and deposited.

And be it Enacted, That Two copies of every confirmed final award shall be made and sealed with the seal of the said Commissioners, and one such copy shall be deposited with the Clerk of the Peace of the county in which the Lands inclosed shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapel-wardens for the time being of the parish in which the Lands or the greater part thereof shall be situated, or such other fit persons as the Commissioners shall approve to be kept by them and their successors in office, with the public books, writings and papers of the parish; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of *Two Shillings and Sixpence* for such inspection, and after the rate of *Three-pence* for every Seventy-two words contained in such copy or extract; and every recital or statement in such confirmed final award, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated.

127 Exchanges may be made of Land not subject to be inclosed.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of any persons interested in any Lands not subject to be inclosed under this Act, or in any Lands subject to be inclosed under this Act, as to which no proceedings for an Inclosure shall be pending, and who shall desire to effect an exchange of their respective Lands, to direct inquiries whether such proposed exchange would be beneficial to the owners of such respective Lands; and in case the Commissioners shall be of opinion that such exchange would be beneficial, and that the terms of the proposed exchange are just and reasonable, they shall cause to be framed and confirmed, under the hands and seal of the Commissioners, an order of exchange, with a map or plan thereunto annexed, in which order shall be specified and shown the Lands given and taken in exchange by each person so interested respectively, and a copy of such order, under the seal of the Commission, shall be delivered to each of the persons on whose application the exchange shall have been made; and such order of exchange shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be in nowise liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the

Land

Land taken upon every such exchange shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the Lands given on such exchange would have stood limited or been subject to in case such order had not been made; and all expenses with reference to such order and exchange, or the inquiries in relation thereto, or to any proposed exchange, shall be borne by the persons on whose application such order shall have been made, or such inquiries undertaken.

128. Division of intermixed Lands.

And be it Enacted, That it shall be lawful for the Commissioners upon the application in writing of any number of persons who shall be separately interested in parcels of Land not subject to be inclosed under this Act, or of Land subject to be inclosed under this Act, as to which no proceedings for an Inclosure shall be pending, so intermixed or divided into parcels of inconvenient form or quantity that the same cannot be cultivated or occupied to the best advantage, but forming together a tract which may be divided into convenient parcels, and who shall desire to have the whole of such tract so divided into convenient parcels to be allotted in lieu of the old parcels, to direct an inquiry whether such proposed division and allotment would be beneficial to the owners of such Lands; and in case the Commissioners shall be of opinion that the proposed division and allotment would be beneficial, they shall cause to be framed an order for the division or allotment thereof accordingly, with a map or plan thereunto annexed, in which shall be specified as well the parcels which the several persons, on whose application such order was made, were respectively interested in before such division and allotment and the several parcels allotted to them respectively by such order, and such order shall be confirmed under the hands and seal of the Commissioners; and a copy of such order, sealed with the seal of the Commissioners, shall be delivered to each of the persons on whose application the division and allotment shall have been made, and such order of division shall be good in the law to all intents and purposes whatsoever, and shall in no wise be liable to be impeached by reason of any infirmity of estate or defect of title of the persons on whose application the same shall have been made; and the parcels of Land taken by the persons interested under such division shall be and enure to, for and upon the same uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances, as the several Lands which the persons taking the same shall have relinquished or lost on such division would have stood limited to, for or upon, or been subject to in case such order had not been made; and all expenses with reference to any such order, division and allotment, or the inquiries in relation thereto, or to any proposed division or allotment, shall be borne by the persons on whose application such order shall have been made or such inquiries undertaken.

129. Expenses of Exchanges and Divisions.

And be it Enacted, That if any difference shall arise touching the said expenses in relation to any exchange, division, allotment, orders or inquiries as aforesaid, or the share thereof to be paid by any person, it shall be lawful for the Commissioners to certify under their hands and seal the amount to be paid by such person; and in case any person shall neglect or refuse to pay his share so certified to be payable by him, and upon the production of such certificate before any Two Justices of the Peace for the county or other jurisdiction wherein the Land is situate, such Justices upon the non-payment thereof are hereby required by warrant under their hands and seals to cause the same to be levied by distress.

130. Penalties and Forfeitures, how recoverable.

And be it Enacted, That all penalties and forfeitures imposed by this Act, or which shall be imposed by the Commissioners or Assistant Commissioner acting in the matter of any Inclosure or other proceeding under or by virtue of the authority of this Act, shall be levied and recovered before any One Justice of the Peace for the county in which the Land subject to be inclosed, or to which such other proceeding shall relate, shall be situate, and not interested in the matter in question, for which purpose it shall be lawful for any such Justice of the Peace upon complaint made to him to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused to examine such witnesses upon oath (which oath any such Justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by One or more witness or witnesses as aforesaid) in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by this Act, shall and so soon as the same shall be levied, be paid and applied to and for such uses, intents or purposes as the Commissioners in and by any writing under their hands and seal shall order, direct or appoint.

131. Distress, how to be made.

And be it Enacted, That when in this Act any sum of money, whether in the nature of penalty or otherwise, shall be directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the surplus monies arising from such sale, after satisfying such sum of money, and the costs and expenses attending the distress and sale, shall, on demand, be rendered to the party whose goods and chattels shall have been distrained.

132. Distress not unlawful for informality.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed

deemed a trespasser on account of any defect or want of form in the warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser, ab initio, on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

133. Notices, how given.

And be it Enacted, That all notices by this Act directed to be given by advertisement shall be given by an advertisement to be inserted in some newspaper or newspapers printed or usually circulated in the county in which the Land subject to be inclosed, or other Land to which such notice shall relate shall be situate, and all notices directed to be given on the church-door shall be by writing, under the hand of the party giving such notice, to be affixed on the principal outer door of the church of the parish, or if there shall be no church, then in some conspicuous place in the parish in which the Land subject to be inclosed or other land to which such notice shall relate or some part thereof shall be situate, on Sunday before divine service; and all notices necessary to be given by the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure (the mode of giving which is not hereby particularly directed) shall be by either or both of the methods aforesaid as the Commissioners or Assistant Commissioner shall think fit; and all notices so given shall be deemed sufficient notices to all persons concerning all matters and things to which such respective notices shall relate.

134. Advertisements and Awards free of duty.

And be it Enacted, That no advertisement inserted, by direction of the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure, in the London Gazette or in any newspaper for the purpose of carrying into effect any provision of this Act, and no agreement, award or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

135. Persons giving false evidence to be subject to the penalties of Perjury.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence he shall be deemed guilty of perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of perjury; and if any person shall wilfully refuse to attend, in obedience to any lawful summons of the Commissioners or an Assistant Commissioner, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, deed, court-roll or writing, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the Commissioners or Assistant Commissioner, he shall be deemed guilty of a Misdemeanor.

136. Limitation of actions.

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant Commissioner, Justice of the

Peace, Valuer, or other person, for any thing done under the authority of this Act, until *Twenty-one* Days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after *Three* calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before *Twenty-one* Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the Jury shall find a verdict for the defendant therein; or the Court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

137. Proceedings not to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant Commissioner under the authority of this Act, except as hereinbefore provided, or any proceeding to be had, touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

138. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person," shall mean and include the Queen's Majesty, and any body corporate, aggregate or sole, as well as an individual; and any word importing the singular number only, shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; and any word importing the masculine gender only, shall mean and include a female as well as a male; and the word "Land," shall mean and include all messuages, lands and corporeal tenements and hereditaments; and the word "parish" shall include any township or vill, or extra-parochial district or place; and the word "church" shall mean and include any chapel where there is no church; and

and the word "school-house" shall mean any parochial or charitable school-house; and the words "the Commissioners" shall mean the Inclosure Commissioners for England and Wales; and the words "Assistant Commissioner" shall mean the Assistant Commissioner appointed by the Inclosure Commissioners.

139. Act to extend only to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

140. May be amended in present session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session.

THE SCHEDULE

To which this ACT refers.

FORM of Conveyance by Commissioners [in the matter of the Inclosure.]

We, the Inclosure Commissioners for England and Wales, by virtue of an Act of Parliament passed in the year of the reign of Queen Victoria, intituled [here insert the title of this Act], and in consideration of the sum of paid into our hands by being the purchase-money of the hereditaments hereinafter described, do by these presents convey unto his heirs and assigns, all that [here describe the premises], with the appurtenances; to hold the same unto the said his heirs and assigns [here state the uses, trusts or purposes of the conveyance, as the case may require.] In witness whereof we have hereunto affixed our seal this day of

---

FORM of Summons.

To of in the County of Field Reeve of

To wit. } I, Esquire, one of Her Majesty's Justices of the Peace in and for the said County of do hereby summon you personally to be and appear before such Two of Her Majesty's Justices of the Peace as shall be present at in the said County, on the day of next, at the hour of in the noon of the same day, to answer the complaint of A. B., that [he is refused reasonable compensation for diminution of his right of pasture in the regulated pasture in], or [that the said A. B. is charged with an excessive payment for increaseof his right of pasture in the regulated pasture of], otherwise the complaint will be proceeded with as if you had appeared. Given under my hand and seal this day of in the year

---

FORM

FORM of ORDER.

To wit. } The Order of and Esquires, Two of Her Majesty's Justices of the Peace in and for the said County, made at in the said County of the day of in the year

WHEREAS complaint hath been made to us by A. B. for that he [state the complaint as in the summons]. We do declare, that [the yearly sum of is a reasonable compensation for the diminution of the right of pasture of the said A. B.] or [the yearly sum of is a reasonable payment for increase of the right of pasture of the said A. B.] And do order that such yearly sum be paid according to the directions of the statute in that behalf. Given under our hands and seals this day of in the year

Commons Inclosure.

A

B I L L

For facilitating the Inclosure and Improvement of Commons.

(*Prepared and brought in by Lord Worsley, Mr. Pusey and Mr. Aglionby.*)

Ordered, by The House of Commons, *to be Printed,*
2 *June* 1843.

[*Price* 8*d.*]

308.

Under 12 *oz.*

(No. 2.)

A

B I L L

For facilitating the Inclosure and Improvement of Commons.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to facilitate the Inclosure and Improvement of Commons and other Lands now subject to rights of property which obstruct cultivation and the productive employment of labour; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Tithe Commissioners for England and Wales for the time being shall be the Commissioners for carrying this Act into execution, and that should the office of the said Tithe Commissioners cease before the purposes of this Act shall have been fully executed, it shall be lawful in such case for one of Her Majesty's Principal Secretaries of State to appoint any fit persons, not exceeding *Three* in number, to be Commissioners for carrying this Act into execution in the place of such Commissioners whose office shall so cease, and at pleasure to remove any One or more of the Commissioners so appointed; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to such office in like manner, and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

Preamble.

1. Appointment of Commissioners.

2. Style of Commissioners.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "The Inclosure Commissioners for England and Wales," and shall have their office in London or Westminster, and they or any *Two* of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the Commissioners shall cause to be made a seal of the said

To have a Common Seal.

said Board, and shall cause to be sealed therewith all awards and orders made or confirmed by the Commissioners in pursuance of this Act; and all such awards and orders and other instruments proceeding from the said Board, or copies thereof purporting to be sealed with the seal of the said Board, shall be received in evidence without any further proof thereof; and no award or order of the Commissioners under the authority of this Act, shall be of any force unless the same shall be sealed as aforesaid.

3. Commissioners to report.

And be it Enacted, That the Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings as such Principal Secretary of State shall require, and shall Twice in every year (that is to say) on the First day of January and the First day of June, send to one of the Principal Secretaries of State a general report of their proceedings, specifying the applications which may have been made to them under the provisions of this Act, and the grounds on which they may have given or withheld their consent to such applications, and the progress which shall have been made in each case of Inclosure which shall have been proceeded with; and in every case in which the draft award shall have been framed, as hereinafter directed, such report shall specify the extent of the Land subject to be inclosed to which such draft award may relate, and the quantity of Land (if any) thereby directed to be set out for public purposes as hereinafter provided, and the grounds on which the Commissioners may have directed the same to be set out as aforesaid; or in case no Land shall be by such draft award directed to be set out for public purposes, the grounds on which they may have thought it unnecessary or improper to set out Land for such purposes; and every such report shall be laid before both Houses of Parliament within *Six* Weeks after the receipt of the same by such Principal Secretary of State if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting thereof.

Report to be laid before Parliament.

4. Power to appoint and remove Assistant Commissioners, &c.

And be it Enacted, That it shall be lawful for the Commissioners from time to time to employ such of the Assistant Commissioners appointed under the provisions of an Act passed in the seventh year of the reign of his late Majesty, intituled, "An Act for the Commutation of Tithes in England and Wales," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant Commissioners, and also a Secretary, Assistant Secretaries, and all such Clerks, Messengers and officers as they shall deem necessary, and to remove such Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers, or any of them; and on any vacancy in any of the said offices, to appoint some other person to the vacant office, and the persons so employed or appointed shall assist in carrying this Act

Act into execution, at such places and in such manner as the Commissioners may direct: Provided always, That the Commissioners shall not appoint more than such Assistant Commissioners to act at any one time, unless the Lord High Treasurer or any Three or more of the Commissioners of Her Majesty's Treasury shall in the case of each such additional appointment consent thereto: Provided also, That the number of such Assistant Secretaries, Clerks, Messengers and officers shall be subject to the like consent.

5. Appointments under this Act limited to Five Years.

And be it Enacted, That no Commissioner or Assistant Commissioner, Secretary or other officer, or person so to be appointed, shall hold his office for a longer period than Five Years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Five Years and of the then next Session of Parliament, so much of this Act as authorizes any such appointment shall cease.

6. Salaries and Allowances.

And be it Enacted, That no salaries shall be paid to the Commissioners appointed or to be appointed in respect of their appointments under this Act, and the allowances to the Assistant Commissioners, and the salaries of the Secretary, Assistant Secretaries, Clerks, Messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord High Treasurer or the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, or any Three of them: Provided always, That the allowance to an Assistant Commissioner shall not exceed the sum of Pounds for every day he shall be actually employed or travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act of the seventh year of his late Majesty King WILLIAM the Fourth: Provided also, That the said Lord Treasurer or Commissioners may allow to any Commissioner, Assistant Commissioner, Secretary, Assistant Secretary, Clerk, Messenger or other officer such reasonable travelling and other expenses as may be incurred by him in the performance of his duties under this Act, in addition to his salary or allowance (if any) respectively.

7. *Allowances and Salaries to be paid out of the Consolidated Fund.*

And be it Enacted, That the allowances and salaries of the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not herein otherwise provided for, shall be paid by the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

8. Commissioners and Assistant Commis-

And be it Enacted, That every such Commissioner shall before he shall enter upon the execution of his office make the following declaration

sioners to make a Declaration.

ration before one of the Judges of Her Majesty's Court of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, execute the powers and duties of a Commissioner, under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the title of this Act]:"

And every such Assistant Commissioner shall before he shall enter upon the execution of his office make the like declaration (substituting the words "Assistant Commissioner" for the word "Commissioner,") before such Judge or Baron, or before any Two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant Commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant Commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration aforesaid, shall be forthwith published in the London Gazette.

9. Commissioners or Assistant Commissioners may summon Witnesses.

And be it Enacted, That the Commissioners or any Assistant Commissioner may by summons under their or his hand require the attendance of all such persons as they or he may think fit to examine upon any matter relating to any Inclosure or other proceeding under the authority of this Act, and also make any inquiries and call for any answer or return as to any such matter; and also administer or receive declarations and examine all such persons upon declaration, and cause to be produced before them or him upon declaration, all books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof respectively, in anywise relating to any such matter: Provided always, That no such person shall be required in obedience to any such summons to travel more than *Ten* Miles from the place of his abode.

10. Commissioners may delegate powers to Assistant Commissioners.

And be it Enacted, That the Commissioners may delegate to the Assistant Commissioners, or to any One or more of them, such of the powers hereby given to the Commissioners as the Commissioners shall think fit (except the power to confirm awards, or to do any act herein required to be done under the seal of the Commissioners), and the power so delegated shall be exercised under such regulations as the Commissioners shall direct; and the Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and, notwithstanding the delegation thereof, may act as if no such delegation had been made; and all acts done by any such Assistant Commissioner in pursuance of such delegated power

power shall be obeyed by all persons as if they had proceeded from the Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Descriptions of Land subject to be inclosed under this Act.

And be it Enacted, That all such Lands as are hereinafter mentioned; (that is to say) all Moors, Commons and Waste Lands, all Lands subject to rights of Common at all times, or during any time or season or periodically, all open and common Arable Fields, all open and common Meadow or Pasture Lands and Fields, all gated and stinted Pastures in which the property of the soil or of some part thereof is in the owners of the cattle-gates and other gates or stints, or any of them; and also all gated and stinted Pastures in which no part of the property of the soil is in the owners of the cattle-gates or other gates or stints, or any of them, all Land held, occupied or used in common, either at all times, or during any time or season or periodically, and either for all purposes or for any limited purpose, and whether separate parcels of the several owners of the soil shall or shall not be known by metes or bounds or otherwise distinguishable; and all Land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year is separated from the property of the soil; and all lot Meadows and other Lands, the occupation or enjoyment of the separate lots or parcels of which is subject to interchange among the respective owners in any known course of rotation or otherwise, shall be Land subject to be inclosed under this Act.

12. Persons interested in Lands for purposes of applications, &c.

And be it Enacted, That for the purposes of this Act, the persons interested in Land subject to be inclosed under this Act, or otherwise subject or to become subject to provisions of this Act, shall be deemed to be the persons hereinafter mentioned, and no others; (that is to say) the persons who shall be in the actual possession or enjoyment or receipt of the rents and profits of any such Land or any part thereof, or any Common or common right thereon, or any Manor of which such Land or any part thereof shall be waste, (except any tenant for life or lives or for years holding under a lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and except any tenant for years whatsoever holding under a lease or agreement for a lease for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, and except any tenant at will or sufferance,) and that without regard to the real amount of interest of such person; and in every case in which any such Land, Common or common right or Manor shall have been leased or agreed to be leased to any person or persons for life or lives or for years by any lease or agreement for a lease on which a rent of not less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved; and in every case in which any such Land,

Common or common right or Manor shall be in the possession of a tenant at will or sufferance, or shall have been leased for a term which shall not have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be entitled to the said Land, Common or common right or Manor in reversion immediately expectant on the term created or agreed to be created by such lease or agreement for a lease respectively, or subject to the tenancy at will or sufferance, shall be deemed for the purposes of this Act to be the person interested as aforesaid in respect of such Land, Common or common right or Manor; and in every case in which any such Land, Common or common right or Manor as aforesaid shall have been leased or agreed to be leased to any person for life or lives or for years by any lease or agreement for a lease, in which a rent less than *Two-thirds* of the clear yearly value of the premises comprised therein shall have been reserved, and of which the term shall have exceeded *Fourteen* Years from the commencement thereof, the person who shall for the time being be in the actual receipt of the rent reserved upon such lease or agreement for a lease, shall, jointly, with the person who shall be liable to the payment of such rent of such Land, Common or common right or Manor be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively; and in every case in which any person shall be in possession or enjoyment or receipt of the rents or profits of any such Land, Common or common right or Manor under any sequestration, extent, elegit or other writ of execution, or as a receiver under any order of a Court of Equity, the person who, but for such writ or order, would have been in possession, enjoyment or receipt of rents and profits shall, jointly with the person in possession, enjoyment or receipt, by virtue of such writ or order, be deemed, for the purposes of this Act, to be the person interested in respect of such Land, Common or common right or Manor respectively.

13. Where the Crown is interested, who shall be substituted.

And be it Enacted, That whenever Her Majesty shall be interested in Land as aforesaid, the First Commissioner of Her Majesty's Woods and Forests and Land Revenues for the time being, or in case Her Majesty shall be so interested in right of the Duchy of Lancaster, the Chancellor of the Duchy of Lancaster shall for the purposes of this Act, and to the extent of such respective interest, be substituted for the person interested as aforesaid.

14. Where Duke of Cornwall is interested, who shall be substituted.

And be it Enacted, That whenever the Duke of Cornwall shall be interested in Land as aforesaid, the Chancellor of the Duchy of Cornwall shall for the purposes of this Act, and to the extent of such interest, be substituted instead of the person interested as aforesaid.

15. Provision for persons jointly interested.

And be it Enacted, That whenever an interest in Land, according to the provisions of this Act, shall be vested in several persons as co-trustees

co-trustees or in joint tenancy, such persons shall for the purposes of this Act be considered as jointly interested and entitled to one vote only in respect of their joint interest, but any One or more of such persons may, unless the other or others of them shall dissent therefrom, act or vote under this Act, and the majority in number of any such persons may, notwithstanding any dissent of the minority, act or vote under this Act in the same manner as if all such persons had concurred; and whenever several persons as tenants in coparcenary or in common shall be so interested, each coparcener or tenant in common shall for the purposes of this Act, and to the extent of the value of his respective undivided share, be deemed separately interested and entitled to vote as if he were tenant in severalty.

16. In case of disability Commissioners to name substitutes.

And be it Enacted, That whenever any person interested in Land as aforesaid shall be a minor, idiot, lunatic, feme covert, or under any other legal disability, or beyond the seas, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, and whom they are hereby empowered to nominate under their hands and seal, shall for the purposes of this Act be substituted in the place of such person so interested.

17. Attornies may be appointed by persons interested.

And be it Enacted, That it shall be lawful for any person interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, by a Power of Attorney, given in writing under his hand, to appoint an agent to act for him for the purposes of this Act; and all things which by this Act are directed to be done by or with relation to any such person may be lawfully done by or with relation to the agent so duly authorized of such person; and every such agent shall have full power, in the name and on behalf of his principal, to sign, concur in and execute any application, or act, and to vote on any question arising out of the execution of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the Power of Attorney under which the agent shall have acted, or a copy thereof, authenticated by the signature of a witness or witnesses, shall be appended to every application or act executed by any such agent; and any such Power of Attorney may be in the form following:

Form of Power.

"I, of
do hereby appoint of
to be my Attorney for all the purposes of an Act passed in the years of Her present Majesty, intituled, ."

18. Meeting to consider the expediency of Inclosure.

And be it Enacted, That any person or persons interested in any Land subject to be inclosed under this Act, may call a meeting of the persons interested in such Land, by notice thereof at least *Twenty-one* Days before such meeting on the church door of the parish within the limits of which such Land or the greater part thereof is situate, and by advertisement to be Twice at least inserted during such *Twenty-one* Days, for the purpose of considering the expediency of an application to the Commissioners for the Inclosure of such Land or of any part thereof; and the majority of the persons present at such meeting shall elect a Chairman; and in case an application in writing to the Commissioners to proceed to an Inclosure of such Land or any part thereof shall be signed at such meeting, or at any adjournment thereof, by any persons then present, the aggregate amount of whose interests in the Land to which such application shall relate, either alone or together with the interest of any person or persons who may subsequently sign such application as hereinafter provided, shall not be less in value than *Two-thirds* of the whole interest in such Land, the Commissioners upon receipt of such application shall inquire into the expediency of proceeding with such Inclosure: Provided always, That any person interested in such Land may after such meeting subscribe such application in the presence of a witness or witnesses, and such signature shall, whether the person so signing shall or shall not have been present at such meeting, be effectual for the purposes of this Act.

19. Proportional interests, how estimated.

Provided always, and be it Enacted, That the proportional interests of the persons interested in any Land subject to be inclosed under this Act, or otherwise subject or to become subject to the provisions of this Act, shall, so far as relates to the power to sign any application, or to give any notice or consent, or vote at any meeting under this Act, be estimated as hereinafter mentioned; (that is to say) where their interests shall be in respect of Land or other rateable property, then according to the proportional sums at which such Land or rateable property is rated to the relief of the poor; and when their interests shall be in respect of rights of Common enjoyed or claimed in respect of any Land, then according to the proportional sum at which the Land in respect of which they enjoy or claim such rights of Common shall be rated to the relief of the poor; but in case such interests shall be in respect of rights of Common in gross not rated to the relief of the poor, or in case from any other cause it shall appear to the persons present at any meeting, held for the purposes of this Act, impracticable or inequitable to estimate such proportional interests in manner aforesaid, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct in what manner such proportional interests shall be estimated, or to depute an Assistant Commissioner to be present at any meeting or adjourned

adjourned meeting, who may direct in what manner such proportional interests shall be estimated, regard being had to the circumstances of each particular case.

20. Power to equalize Assessments.

Provided also, and be it Enacted, That in case the Land subject to be inclosed under this Act, or the Lands or tenements in respect of which rights of Common therein may be claimed shall be situate in more than one parish, and it shall appear to a majority of the persons present at any such meeting as aforesaid, that the assessments to the poor-rate of the respective parishes in which such Land is situate are calculated upon different principles, it shall be lawful for the Commissioners, on application made to them by the Chairman of the meeting, to direct that for the purposes of this Act the respective assessments shall be deemed to be increased or decreased in such proportions as the Commissioners shall think fit.

21. Proportional interests of Lords of Manors.

And be it Enacted, That in case there shall be several Lords of a Manor, or Lords of several Manors interested in any Land subject to be inclosed under this Act, the proportional interests of such Lords shall be estimated in such manner as the Commissioners may direct.

22. Separate applications for separate tracts.

And be it Enacted, That when the Land to which such application shall relate, shall be in part a tract of open and common Arable, Meadow or Pasture Lands or Fields, and in part a tract of Common or Waste Lands, subject to rights of Common, or shall otherwise consist of separate and distinct tracts subject to separate and distinct rights or classes of rights; and the persons interested in one of such tracts shall not be all interested in the other of them, it shall be lawful for the Commissioners to ascertain whether persons interested in each of such tracts whose interest shall not be less than *Two-thirds* in value of the whole interest therein, shall have signed such application; and in case it shall thereupon appear that such application is not signed by such proportion in value of the persons interested in any such tract as aforesaid, the said Commissioners shall not proceed further under this Act in respect of such tract, unless or until persons interested therein whose interest shall not be less than *Two-thirds* shall have signed the said application, or some supplemental or separate application.

23. Consent of the Lord of the Manor,

Provided always, and be it Enacted, That when the Land to which such application shall relate shall be the Waste of any Manor or Land within any Manor to the soil of which the Lord of such Manor shall be entitled in right of his Manor, then unless there shall be some action, suit or controversy as to the title of such Manor, or of the title of the Lord of such Manor to such Waste or Land, or there shall be more

than one person interested in such Manor or Land, according to the definition of this Act, the Commissioners shall not proceed to an Inclosure on such application, unless the person interested in the Land subject to be inclosed as aforesaid in right of such Manor, or his substitute under his act, shall sign such application, or shall signify his assent thereto in writing.

24. Adjournment of Meetings.

And be it Enacted, That in case an adjournment of the said meeting for any cause shall be desired by a majority of the persons attending such meeting, the Chairman shall adjourn the meeting to any time and place desired by a majority of the persons attending such meeting, and so from time to time in case the same shall be in like manner desired by a majority of the persons attending such meeting; and notice of every adjourned meeting shall be given under the hand of the Chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden; and the like order of proceeding shall be observed in any such adjourned meeting, and every thing done at any such adjourned meeting shall be as valid as if done at the original meeting.

25. Forms to be circulated.

And be it Enacted, That the Commissioners shall frame and cause to be printed as soon as conveniently may be after the passing of this Act, forms of applications, notices and such other instruments as they may deem requisite or expedient for facilitating proceedings under this Act, and supply such forms to whomsoever they may think fit to send the same for the use of any person desirous of putting this Act into execution.

26. Commissioners to inquire into expediency of Inclosure, and if satisfied to call Meetings.

And be it Enacted, That upon the receipt of any such application for Inclosure as aforesaid, the Commissioners shall proceed to inquire into the expediency of such Inclosure, having regard as well to the health, comfort and convenience of the inhabitants of any neighbouring cities, towns, villages or populous places, as to the advantage of the Proprietors and persons interested in the Land to which such application shall relate; and if after inquiry they shall consider it expedient that the Inclosure of the Land proposed to be inclosed or any part thereof be proceeded with, they shall from time to time hold by themselves, or by an Assistant Commissioner, such meetings in the matter of such Inclosure as occasion shall require, and shall cause notice to be given on the church door of the parish in which the Land proposed to be inclosed or the greater part thereof is situate; and also a like notice to be given by advertisement, of the time and place of the meeting in the matter of such Inclosure, and of each subsequent meeting

meeting in the like matter, *Fourteen* Days' at least before such respective meeting (meetings by adjournment only excepted); and if from any cause the Commissioners or Assistant Commissioner shall think fit to adjourn any such meeting, it shall be lawful for them or him to adjourn such meeting to any future day.

27. Proportional interests of applicants to be scrutinized.

Provided always, and be it Enacted, That in case any person interested in the Land to which such application shall relate shall give notice in writing to the Commissioners that such application was not signed by persons possessing the proportion of interest by this Act required in that behalf, the Commissioners shall before they proceed to inquire into the expediency of such Inclosure ascertain the interests of the persons signing the application; and in case it shall appear that the persons signing the same had not the proportion of interest hereinbefore required for that purpose, no further proceedings shall be taken under such application, until the same shall have been duly signed according to the provisions of this Act.

28. Claims to be delivered in writing.

And be it Enacted, That all persons claiming any common or other right or interest in any Land proposed to be inclosed as aforesaid, shall deliver such claims in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure at such meeting as the Commissioners or Assistant Commissioner shall appoint for the purpose, stating the several particulars in respect whereof such claims are made, and distinguishing the claims in respect of freehold, copyhold, customary and leasehold property from each other, and mentioning therein the places of abode of the respective claimants or their agents at which all notices in respect of such claims may be delivered; and no such claim shall be received by such Commissioners or Assistant Commissioner after the last meeting to be held for that purpose, of which notice shall be given, except for some special cause to be allowed by the Commissioners.

29. Power to set out Boundaries of Commons.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary, inquire into, ascertain and set out the boundaries of the Land proposed to be inclosed; and in case any doubts or difficulties shall arise respecting such boundaries, the Commissioners or Assistant Commissioner shall determine the same in like manner as by this Act provided for the determination of claims made in the matter of such Inclosure.

30. Power to set out Boundaries of Parishes.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure may, when they or he shall think necessary for the purposes of such Inclosure, inquire into the boundaries of any parish in which the Land proposed to be inclosed

closed or any part thereof shall be situate, and of any parish adjoining thereto; and in case it shall appear to the Commissioners or Assistant Commissioner that the boundaries of the same respectively are not then sufficiently ascertained and distinguished, the Commissioners or Assistant Commissioner shall, after giving such notices as they or he shall think necessary for the protection of the rights of all persons interested in this behalf, ascertain and set out the same respectively in writing under the hand and seal of such Assistant Commissioner, or under the seal of such Commissioners; and after the said boundaries shall be so ascertained and set out and fixed, the same shall and are hereby declared to be the boundaries of such parishes; and the Commissioners or Assistant Commissioner shall within *One Month* after ascertaining and setting out the boundaries, publish the same by causing a description thereof in writing to be delivered to or left at the place of abode of one of the Churchwardens or Overseers of the poor of each of the parishes of which the boundary shall be so set out, and shall give notice that such boundary has been so set out, and that such description has been so left as aforesaid, by advertisement: Provided always, That any person interested in the determination of the Commissioners or Assistant Commissioner respecting the said boundaries, who shall be dissatisfied with such determination, may within *Three* calendar Months next after publication of the said boundaries, by delivering or leaving such description as aforesaid, give notice in writing of his dissatisfaction to the Commissioners, specifying the particulars in respect whereof he may be dissatisfied, and request that the matter in dispute may be submitted to the determination of a jury; and in every such case the Commissioners shall and they are hereby required to issue a warrant under their hands and seal to the sheriff of the county in which the parishes in question or one of them shall be situate, commanding such sheriff to impannel, summon and return, and such sheriff is hereby accordingly empowered and required to impannel, summon and return a jury of at least Eighteen sufficient and indifferent men qualified according to the laws of the realm to be returned for trial of issues in Her Majesty's Courts of Record at Westminster; and the persons so to be impanneled, summoned and returned are hereby required to appear before any Assistant Commissioner specially appointed by the Commissioners for that purpose at such time and place as in such warrant shall be appointed, and to attend from day to day until duly discharged; and out of such persons so to be impanneled, summoned and returned, a jury of Twelve men shall be drawn by the said Assistant Commissioner, or by some person to be by him appointed, in such manner as juries for trials of issues joined in Her Majesty's Courts of Record at Westminster are by law directed to be drawn; and in case a sufficient number of jurymen shall not appear at the time and place so to be appointed as aforesaid

Appeal on questions of Boundary.

aforesaid, such sheriff shall return other honest and indifferent men of the standers-by, or of others that can speedily be procured to attend that service (being so qualified as aforesaid), to make up the said jury to the number of Twelve; and all parties concerned may have their lawful challenges against any of the said jurymen, but shall not challenge the array; and the said Assistant Commissioner is hereby empowered and required to summon before him all persons who shall be thought necessary to be examined as witnesses touching the matter in question, and may authorize or order the said jury, or any Six or more of them, to view the boundaries or the part thereof which is in controversy, and such jury shall upon their oaths, or, being Quakers, upon their affirmations, (which oaths and affirmations, as well as the oaths and affirmations of all such persons as shall be called upon to give evidence, the said Assistant Commissioner is hereby empowered and required to administer,) inquire into and ascertain the said boundaries, or such part thereof as shall have been in controversy, and shall declare whether the said boundaries as described and set out and published as aforesaid are or are not the true boundaries of the respective parishes, and in case they shall declare that the same are not the true boundaries, then shall declare in what manner the boundaries so described and set out and published as aforesaid ought to be amended, and shall give verdict accordingly, and the Assistant Commissioner shall reduce such verdict to writing and certify the same to the Commissioners, under his hand and seal; and in case such jury shall have declared that the boundaries so described and set out and published as aforesaid ought to be amended, the Commissioners shall amend the same in accordance with such verdict, and such amended boundaries shall thenceforth be conclusive on all persons whomsoever.

31. Non-attendance of jurymen.

And be it Enacted, That if any person so summoned and returned upon any such jury as aforesaid shall not appear, or appearing shall refuse to be sworn, or, being a Quaker, to make affirmation, or shall refuse to give his verdict, or shall in any other manner wilfully neglect his duty contrary to the true intent and meaning of this Act; or if any person so summoned to give evidence as aforesaid shall not appear on being paid or tendered a reasonable sum for his costs and expenses, or appearing shall refuse to be sworn, or, being a Quaker, affirmed, or to give evidence, every person so offending, having no reasonable excuse, to be judged of and determined by the said Assistant Commissioner, shall forfeit and pay for every such offence any sum not exceeding *Ten Pounds*; all which said penalties and forfeitures shall and may be recovered as penalties and forfeitures are recoverable under this Act.

32. Juries to be subject to the Regulations concerning Juries returned to try issues in Courts of Record at Westminster.

And be it Enacted, That every such jury and jurymen as aforesaid shall also be subject to the same regulations, pains and penalties as if such jury and jurymen had been returned for the trial of any issue joined in any of Her Majesty's Courts of Record at Westminster.

33. Costs of appeal.

And be it Enacted, That in every case in which the verdict of a jury shall be given in favour of the person who shall have requested that such jury be summoned, all the costs of summoning such jury and the expenses of witnesses shall be defrayed by the Commissioners, and shall be expenses in the Inclosure in the matter of which the question shall have arisen, and such costs and expenses shall be settled and determined by the said Assistant Commissioner as aforesaid; but if the verdict of the jury shall be given against such person, the said costs and expenses shall be defrayed by such person; and in case such costs and expenses shall not be paid to the party entitled to receive the same within *Ten* Days after the same shall have been demanded, then the same shall and may be recovered by distress.

34. Security for Costs to be taken by the Commissioners.

And be it Enacted, That every person who shall be dissatisfied and shall require a jury to be summoned as aforesaid, shall, at his own costs, before the Commissioners shall be obliged to issue their warrant for the summoning of such jury, enter into a bond with two sufficient sureties to the Commissioners in a sufficient penalty to prosecute the complaint, and to bear and pay their costs and expenses of summoning and returning such jury and taking such verdict, and of the summoning and attendance of witnesses, in case the said costs and expenses shall fall upon them.

35. Statement of Claims to be deposited for examination.

And be it Enacted, That a statement of all claims made in the matter of any Inclosure shall be made and deposited by the Commissioners or Assistant Commissioner acting in the matter of such Inclosure, at some public place within the parish in which the Land proposed to be inclosed, or the greater part thereof, shall be situate, *Fourteen* Days at least before the time to be appointed for the examination of such claims as hereinafter provided; and the Commissioners or Assistant Commissioner shall cause *Fourteen* Days' notice to be given of the time and place of the meeting for the examination of such claims and for the attendance of all parties concerned therein; and at such meeting the Commissioners or Assistant Commissioner shall proceed to examine into and determine such claims, and shall and may allow or disallow the same in whole, or in part, and make such order therein as to them or him shall appear just; and in case any doubts or difficulties shall arise respecting such claims, or any differences shall happen between any of the claimants touching their respective claims or the relative proportions of their rights and interests, the Commissioners or Assistant Commissioner shall determine the same,

Claims to be heard and determined.

and

and shall make such order therein as to the Commissioners or Assistant Commissioner shall appear just, which order shall be final, unless any party shall be dissatisfied with the determination of the Commissioners or Assistant Commissioner, and shall proceed to try his right by an issue at law, without prejudice nevertheless to such right to a rehearing, after the draft award shall have been framed, as hereinafter provided.

36. Commissioners not to decide on Titles.

Provided also, and be it Enacted, That nothing in this Act contained shall extend to enable the Commissioners or Assistant Commissioner to determine the title of any Lands or to determine any right between any parties contrary to the actual possession of any such parties (except in cases of encroachment, as hereinafter mentioned), but in case the Commissioners or Assistant Commissioner shall be of opinion against the rights of the party in possession, they or he shall forbear to make any determination thereupon until the possession shall have been given up by such party or recovered from him in due course of law; or where the circumstances shall admit, such Commissioners or Assistant Commissioner may declare what right is appendant or appurtenant to any Land, or otherwise declare by any sufficient description the rights of the owner for the time being of any Land without declaring by name who may be the actual owner of such Land.

37. Provisions for encroachments within Twenty Years.

And be it Enacted, That all encroachments and Inclosures which shall have been made by any person from or upon any part of the Land proposed to be inclosed, within *Twenty* Years next before the first meeting for the examination of claims in the matter of the Inclosure thereof, whether any amerciament, rent or money, payment or acknowledgment shall or shall not have been paid in respect of the same to or for the use of the Lord of the Soil, or any other person, shall be deemed parcel of the Land subject to be inclosed, and shall be divided, allotted and inclosed accordingly: Provided always, That in case under the circumstances of any such encroachments or Inclosures it shall appear to the Commissioners or Assistant Commissioner just or reasonable that rights should be allowed to the persons in possession of such encroachments or Inclosures, it shall be lawful for the Commissioners or Assistant Commissioner to allow and declare such rights accordingly: Provided also, That it shall be lawful for the several persons who shall be in possession of any such encroachments or Inclosures, or in the receipt of the rent thereof at the time of the confirmation of the draft award under this Act, to take down or remove all such buildings, fences and other erections as shall then be thereon, and to convert the materials thereof to their own use; and in case any dispute or difference shall arise touching any such encroachments or Inclosures, or as to the extent thereof,

such dispute or difference shall be determined by the Commissioners or Assistant Commissioner.

38. School-houses &c. not to be deemed encroachments.

Provided also, and be it Enacted, That in case any such Land shall have been taken or used, at any time before such first meeting for the examination of claims, for the erection of a school-house or the appurtenances thereto, or for other charitable or parochial purposes, such Land so taken, or the erections made thereon, shall not be taken or deemed to be of the nature of an encroachment within the meaning of this Act.

39. Encroachments of Twenty Years' standing to be deemed ancient Inclosures.

Provided always, and be it Enacted, That all Land which shall have been inclosed from any Land subject to be inclosed under this Act for more than *Twenty* Years next preceding the day of the first meeting for the examination of claims in the matter of such Inclosure shall, for the purposes of this Act, be deemed and taken to be ancient Inclosures.

40. Rights in respect of Tofts to be allowed.

And be it Enacted, That all tofts, foundations or sites of ancient commonable messuages or cottages shall, upon proof being made to the satisfaction of the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, that commonable messuages formerly stood thereon, be deemed commonable messuages or cottages, and the respective proprietors thereof shall be entitled to the same compensation for the rights of common originally belonging thereto as if such messuages or cottages were still standing.

41. Rights not sustainable in law to be allowed upon proof of Sixty Years' usage.

And be it Enacted, That where any claim shall be made to any right of Common or other right which in the judgment of the Commissioners or Assistant Commissioner could not be sustained in law, but proof shall be made to the satisfaction of the Commissioners or Assistant Commissioner that there has been enjoyment under the right so claimed for the space of *Sixty* Years or upwards, next before the first meeting for the examination of claims in the matter of such Inclosure, it shall be lawful for the Commissioners or Assistant Commissioner to allow such claims in such and the same manner as if the right so claimed might have been legally sustained and established.

42. Appeal in respect of Claims.

Provided always, and be it Enacted, That if any person claiming to be interested in any Land proposed to be inclosed under this Act shall be dissatisfied with any determination of the Commissioners or Assistant Commissioner, concerning any claim or interest in or to the Land proposed to be inclosed under the powers hereinbefore contained, and shall cause notice in writing of such dissatisfaction to be delivered to the Commissioners, to be given within *Thirty* Days next after notice of such determination shall have been given to the several parties or persons specially interested, if any such there be, it shall be lawful for such person so dissatisfied and giving such notice as aforesaid

aforesaid to bring an action upon a feigned issue against the person in whose favour such determination shall have been made, or against the Commissioners, and to proceed to a trial at law at the then next Assizes, or at the Assizes immediately following such next Assizes, to be holden for the county wherein the Lands relating to which such dispute shall arise are situate; and the defendant in such action shall, upon being served with the usual process therein, appear thereto, and accept One or more issue or issues whereby such claim, and the right and interest thereby insisted upon, may be tried and determined; such issue to be settled by the proper officer of the Court in which the said action shall be commenced in case the parties shall differ about the same; and the verdict given upon the trial of such action shall be binding and conclusive upon all parties thereto, unless the Court wherein such action shall be brought shall set aside such verdict and order a new trial to be had; and after such verdict shall be given and final judgment obtained thereon, the Commissioners shall act in conformity thereto, and allow or disallow the claim thereby determined according to the event of such trial; and the costs attending any such action shall abide the event of the trial.

43. Determination of Commissioners not appealed against conclusive.

Provided always, and be it Enacted, That if no such notice shall be given, or if no such action at law shall be commenced as aforesaid, or if any such action shall be commenced and the plaintiff therein shall not proceed to trial within the time hereinbefore limited for that purpose, unless the Court for sufficient cause put off the trial, then the determination of the said Commissioners or Assistant Commissioner shall be final and conclusive.

44. Actions not to abate.

And be it Enacted, That if any person, plaintiff or defendant, in any action to be brought as aforesaid shall die pending the same, such action shall not abate by reason thereof, but may be proceeded in as if no such event had happened, the heir or devisee or other person entitled to the interest of the deceased party in the matter in question being served with process in the action; and if any person in whose favour such determination as aforesaid shall have been made, and against whom any such action might have been brought if living shall die before any action brought, it shall be lawful for the person who might have brought such action to bring the same, within the time so limited as aforesaid, against such person as if actually living, and to serve the Commissioners with process for commencing such action in the same manner as the deceased person might have been served therewith if living; and it shall thereupon be incumbent on the Commissioners to serve with such process the heir or devisee or personal representative of the deceased person, or other the person who shall claim the benefit of such determination as aforesaid; and on such process being served, such heir or devisee, or personal representative,

or other person, shall appear and defend such action in the name of the person so dead, and proceedings shall be had therein in the same manner as if such person had been living, and the rights, interests and claims of all parties shall be equally bound by the event of any action so brought or continued as aforesaid, as if the death of any of the persons interested therein had not occurred.

45. Commissioners may award Costs.

And be it Enacted, That in case the Commissioners or Assistant Commissioner acting in the matter of any Inclosure upon the determination of any claim or objection to be delivered to them or him in pursuance of this Act, shall see cause to award any costs, it shall be lawful for the Commissioners or Assistant Commissioner, upon application, to assess and award such costs as they or he shall think reasonable to be paid to the person in whose favour any determination of the Commissioners or Assistant Commissioner shall have been made, and by the person whose claim or objection shall have been disallowed; and in case any person liable to pay such costs shall neglect or refuse to pay the same upon demand, the Commissioners or Assistant Commissioner shall by warrant directed to any person or persons whomsoever cause such costs to be levied by distress; and if there shall be no goods and chattels whereon to levy such costs, it shall be lawful for the person in whose favour such costs shall be awarded, to recover the same by action of debt, or on the case; in which action it shall be sufficient for the plaintiff to declare that the defendant is indebted to him in the sum specified in the order of adjudication made by the Commissioners or Assistant Commissioner, and in consequence of such order, without setting forth any other proceedings under this Act.

46. Draft Award.

And be it Enacted, That when the Commissioners or Assistant Commissioner, acting in the matter of any Inclosure, shall have determined such claims as hereinbefore directed, and, in case any doubt or difficulties shall have arisen respecting the boundaries of the Land proposed to be inclosed, shall have determined and set out such boundaries, they or he shall determine what part of the Land proposed to be inclosed shall be set out and appropriated for such public purposes as hereinafter mentioned, or any of them; (that is to say) for the formation of public roads and ways, or widening any existing public roads or ways, for supplying stone, gravel or other materials for the repairs of the several roads and ways to be made over such Land, and of the other roads and ways within the parish in which such Land shall be situate, for the formation of such public drains, watercourses or embankments as may appear conducive to the health and advantage of such parish or the neighbourhood, for a place of exercise and recreation for the inhabitants of the neighbourhood, for the formation or improvement of public ponds, wells and watering-places,

places, and for a supply of fuel for the poor or other inhabitants of the parish, for Land for any burying-ground, or enlarging any burying-ground, for the site of any school or of any workhouse or garden to be attached thereto, or for any other purpose of public utility or convenience, or for the convenience or accommodation of the persons interested in the Land to be inclosed, and shall frame a draft award, to which shall be annexed a map of the Land to be inclosed, showing the position and quantity of the Land proposed to be set out for such public purposes as aforesaid, and the public roads and ways (if any) proposed to be stopped or diverted, and also the private drains, watercourses and embankments which may appear to the Commissioners or Assistant Commissioner essential for the purposes of the proposed Inclosure; and such draft award shall contain a declaration of the proportional right or interest of the Lord of the Manor (if any), and of the several and respective rights or interests of the several persons interested in the Land to be inclosed according to the determination of the Commissioners or Assistant Commissioner as aforesaid; and where such persons shall be interested in respect of Lands or rights of different tenures, or held under different titles, or in respect of separate rights appendant or appurtenant to different Lands, shall specify and distinguish the rights and interests in respect of such different tenures, titles and Lands respectively.

47. Deposit of draft Award.

And be it Enacted, That as soon as such draft award shall have been framed as aforesaid, the Commissioners or Assistant Commissioner shall deposit a copy of the same at some convenient place within the parish in which the Land to be inclosed, or the greater part thereof, shall be situate, for the inspection of all persons interested in the Inclosure, and shall forthwith give notice in such manner as to the Commissioners shall seem fit, where the said copy may be inspected, and shall upon the application of any Lord of a Manor, interested in such Inclosure, and entitled to the soil of the Land to be inclosed, furnish him with a copy of such draft, and shall in such notice as aforesaid appoint some convenient place and time (the First not earlier than *Twenty-one* Days from the first giving of such notice) for holding a meeting to hear objections to such draft award by any person interested therein in respect of any matter appearing therein, which shall not have been heard and determined on such examination of claims as hereinbefore directed; and the Commissioners or Assistant Commissioner at such meeting as aforesaid, shall hear and determine any such objections which may be then and there made to the said draft award, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and from time to time fix further meetings for the hearing and determining of such objections; of which further meetings when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting; and

and Meeting for hearing objections.

and when the Commissioners or Assistant Commissioner shall have heard and determined all such objections, they or he shall amend such draft award accordingly if they or he shall see occasion.

48. Rehearing.

And be it Enacted, That if any person interested in any such Inclosure shall be desirous that any claim or matter which shall have been previously determined by the Commissioners or Assistant Commissioner on the examination of claims as aforesaid, and in respect of which no action at law shall have been brought under the provision hereinbefore contained, should be reheard as an objection to the draft award, and of such his desire shall give notice in writing to the Commissioners or Assistant Commissioner acting in the matter of such Inclosure at or before the meeting, held to hear such other objections to such draft award as aforesaid, the Commissioners shall forthwith give notice in such manner as they shall think fit, appointing some convenient place and time for holding a meeting to rehear such claim, matter or objection; and the Commissioners or any Assistant Commissioner, specially empowered for that purpose, shall rehear and determine the said claim, matter or objection, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting, and may, if they or he shall see occasion, from time to time fix other meetings for such rehearing; and when the Commissioners or Assistant Commissioner shall have reheard and determined such claim, matter or objection, they or he may, if they or he shall see occasion, amend the draft award accordingly; and the decision of the Commissioners or Assistant Commissioner upon such rehearing shall be final and conclusive, and shall not be subject to be re-opened for any cause whatever: Provided always, That no person shall be entitled to a rehearing of any claim, matter or objection until he shall have procured some sufficient person on his behalf to join with him in giving security by bond to the said Commissioners in a sufficient penalty conditioned for the payment of all such costs as the Commissioners or Assistant Commissioner shall think fit to award, as the costs of such rehearing to be paid to such person as the Commissioners or Assistant Commissioner shall direct.

49. Confirmation of draft Award.

And be it Enacted, That as soon as the Commissioners or Assistant Commissioner acting in the matter of any Inclosure shall have made such amendments in the draft award as to them or him shall seem necessary, or shall have determined that no amendments shall be necessary, the Commissioners, if they think that the draft award ought to be confirmed, shall confirm the same under their hands and seal, and shall add to the draft the date of such confirmation, and shall publish the fact of such confirmation, and the date thereof in the parish, or in each parish in which the Land to be inclosed, or any part thereof, shall be situate, in such manner as to them shall seem fit; and

and every such confirmed draft award shall be binding on all persons interested in the Land to be inclosed, and shall be the basis and guide of all such further proceedings in the matter of such Inclosure as hereinafter directed.

50. Notice of application to Parliament to suspend Inclosures may be given.

Provided always, and be it Enacted, That in case any persons interested in the Land proposed to be inclosed, the aggregate value of whose interests in such Land shall not be less than One-fourth of the whole interest therein, shall within Twenty-one Days after the publication of the confirmation of the draft award cause to be delivered to the Commissioners a notice in writing of their intention to apply to Parliament to suspend such proposed Inclosure, then the Commissioners shall not further proceed with such Inclosure until the expiration of *Six* Weeks after the receipt of such notice by the Commissioners, if Parliament be sitting, or if Parliament be not sitting, then within *Six* Weeks after the next meeting of Parliament.

51. Meeting for appointing Valuer.

And be it Enacted, That as soon as conveniently may be after the expiration of *Twenty-one* Days next after the publication of the confirmation of such draft award, the Commissioners or Assistant Commissioner acting in the matter of the Inclosure shall call a meeting of the persons interested in the Land to be inclosed, to be held for appointing a Valuer to divide, set out and allot such Land, or so much thereof as shall not have been directed to be set out for public purposes as aforesaid, among the persons interested therein, and to set out, divide and improve in such manner as hereinafter mentioned, so much thereof as shall have been directed to be set out for public purposes, and shall give notice of such meeting; and the persons or their agents present at the meeting, or the majority in number, and the majority in respect of interest, may appoint a Valuer; and in case the majority in number and the majority in respect of interest shall not agree upon the appointment, then the Commissioners shall appoint a Valuer.

52. Instructions to Valuer.

And be it Enacted, That at the meeting for appointing a Valuer, or at some other meeting called by the Commissioners or Assistant Commissioner for the purpose, the persons or their agents present at the meeting, or the majority in number and in value of interest, may resolve upon instructions to the Valuer, not inconsistent with the draft award, for the formation, alteration or improvement on the Land to be inclosed, of such private or occupation-roads and ways, common ponds, ditches, watercourses, embankments, tunnels, bridges and fences, or any of them, and for the adoption and use for the purposes of the Inclosure of a copy of any map or plan which shall have been confirmed under the hands and seal of the Tithe Commissioners of the Land in question, or of any other map or plan of the accuracy of which they shall be satisfied, or for making any new survey, map or plan, and as to all other matters and things which may be proper to be done in the matter of the Inclosure,

and also for the raising and payment of all expenses incident to such Inclosure, either by sale of part of the Land proposed to be inclosed, or by such rate as hereinafter provided, as to the persons present at such meeting, or such majority as aforesaid, shall seem fit; or in case the majority in number and not less than *Four-fifths* in value of interest of the persons present at such meeting shall resolve on a sale of all the land proposed to be inclosed, except such part thereof as shall have been directed to be set out for public purposes, then it may be an instruction to the Valuer to proceed to such sale; and the majority in number and value as aforesaid may make any agreement with the Valuer for the payment of such Valuer for the duties to be performed by him under this Act; and all such instructions and such agreement (if any) shall be reduced into writing, and shall be sent by the Chairman of the meeting to the Office of the Commissioners; and it shall be lawful for the Commissioners, having regard to the protection of the rights of all persons interested in the Inclosure, to allow or disallow such instructions, in whole or in part, or to make such alterations therein or additions thereto, and to allow or disallow such agreement, as they shall think proper; and in case no instructions shall have been so agreed to, and sent to the Commissioners, or in case they shall disallow the instructions so agreed to and sent, it shall be lawful for the Commissioners to frame such instructions as they shall think proper; and in case no such agreement shall have been sent, or the agreement sent shall have been disallowed, it shall be lawful for the Commissioners to make such order for the payment of the Valuer as they shall think proper; and a copy, under the seal of the Commissioners of all such instructions as the same shall have been allowed, altered or framed as aforesaid, shall be delivered to the Valuer, with a copy of the draft award, and the Valuer shall in his proceedings in such Inclosure observe and obey the directions and declarations of such draft award and instructions respectively.

53. Form of Declaration by Valuer.

And be it Enacted, That no Valuer shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant Commissioner, Justice of the Peace, or Master Extraordinary in Chancery, the following Declaration; (that is to say)

"I, do solemnly declare that I will faithfully, impartially and honestly, according to the best of my skill and judgment, perform all the duties of a Valuer in the Inclosure of according to the provisions of an Act passed in the year of the reign of Queen Victoria, intituled "

Which Declaration it shall be lawful for the Commissioners or any Assistant Commissioner, Justice, or Master Extraordinary in Chancery to administer; and every such Declaration so made and subscribed

scribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the Office of the Commissioners; and a certificate, under the seal of the Commissioners, that the person named in such certificate has been appointed a Valuer in the matter of an Inclosure, and has made and subscribed the Declaration required by this Act, shall be conclusive evidence of such appointment and of his having made and subscribed such Declaration.

54. Power to straighten Boundaries.

And be it Enacted, That for the purpose of shortening or rendering straight any boundary fences between the Land to be inclosed and any adjoining Lands, it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing of the person interested in such adjoining Lands, to set out and determine the boundaries between the Land to be inclosed and such adjoining Land, or to draw and define a new line of boundary, as he shall judge proper for the purposes aforesaid; and after such boundaries shall have been so set out and determined as aforesaid, or such new line of boundary drawn and defined, the same shall be made, fenced, ditched or mounded by such person, in such manner and at such times as the Valuer shall direct, and shall for ever thereafter be deemed the boundaries and limits of such respective Lands.

55. Power to Valuer to make Watercourses, &c.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure to set out and make such common ponds, ditches, watercourses, embankments, tunnels and bridges of such extent and form, and in such situations as he shall deem necessary, and as shall not be inconsistent with the draft award, in the Land to be inclosed, and also to enlarge, cleanse or alter the course of and improve any of the existing ditches or watercourses, embankments, tunnels or bridges, as well in and over the same Land, as also in any ancient Inclosures or other Lands in the parish or respective parishes in which the Land to be inclosed may be situate, as the Valuer shall deem necessary, making such satisfaction to the proprietors of such ancient Inclosures or Lands for the damage done thereby as the Valuer shall think just; and the expense of making and enlarging, altering and cleansing such ponds, ditches, watercourses, embankments, tunnels and bridges, when the same shall be first done in pursuance of this Act, if not otherwise provided for, shall be raised and paid in the same manner as the other expenses of the Inclosure; but all such ponds, ditches, watercourses, embankments, tunnels and bridges shall at all times afterwards be repaired, cleansed and maintained by such persons, and in such manner as the Valuer shall direct, provided that no watercourse be diverted or turned without the consent, in writing, of the person interested in the Land from which the same may be diverted,

and of the person interested in the Lands into which the same may be turned, or to the prejudice of any person interested in such water-course, except with his consent in writing.

56. Power to alter Roads and Ways.

And be it Enacted, That in the first place the Valuer acting in the matter of any Inclosure shall and may before he shall proceed to make any of the divisions and allotments of the Land to be inclosed, set out the public roads and ways through and over the said Land, and widen any of the public roads or ways which may pass through or over the said Land as by the draft award shall have been directed; and shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of such draft award, stop up, divert or alter any of the roads or ways passing through the Land to be inclosed, or through any old Inclosures in the parish or respective parishes in which the Land to be inclosed shall be situate; and the soil of such of the roads and ways so to be discontinued and stopped up as pass through the Lands to be inclosed, shall be deemed part of the Lands to be inclosed: Provided always, That nothing herein contained shall authorize the altering or divertin g any turnpike-road, unless the consent of the majority of the Trustees of such turnpike-road, assembled at a public meeting called for that purpose, be first obtained: Provided also, That before any public road or way shall be discontinued, diverted, stopped up or altered by the Valuer acting in the matter of any Inclosure, the Valuer shall cause to be affixed at each end of such road or way a notice to the effect that the same is intended to be discontinued, stopped up, diverted or altered, as the case may be, from and after a day to be mentioned in such notice; and the Valuer shall also cause the same notice to be given by advertisement for *Four* successive Weeks, and also on the church-door on the *Four* Sundays of the said *Four* successive Weeks; and after the said several notices shall have been so given, such road or way shall from and after the day in such notice mentioned, be deemed to be discontinued, stopped up, diverted or altered, as the case may be, subject however to such appeal as is hereinafter mentioned.

57. Appeal to Quarter Sessions.

And be it Enacted, That it shall be lawful for any person within *Four* Months after the first Sunday on which such notice shall have been given on the church-door of the intention that such road or way should be discontinued, stopped up, diverted or altered, as the case may be, to make his complaint thereof by appeal to the Justices of the Peace at the Quarter Sessions for the county in which such road or way, or the greater part thereof, shall be situate, upon giving to the Valuer *Ten* Days' notice in writing of such appeal, together with a statement in writing of the grounds thereof; but it shall not be lawful for the Appellant to be heard in support of such appeal, unless such notice and statement shall

shall have been given as aforesaid, nor on any hearing of appeal to go into evidence of any other grounds of appeal than those set forth in such statement as aforesaid.

58. Trial of Appeal.

And be it Enacted, That in case of such appeal, the Justices at such Quarter Sessions shall, for the purpose of determining whether such public road or way shall be discontinued, stopped up, diverted or altered, or whether the party appealing would be thereby injured or aggrieved, impannel a jury of Twelve disinterested men out of the persons returned to serve as jurymen at such Quarter Sessions; and if after hearing the evidence produced before them the said jury shall return a verdict that such road or way is unnecessary, or may beneficially to the public be discontinued, stopped up, diverted or altered, and that the party appealing would not be injured or aggrieved thereby, then the said Court shall dismiss such appeal, and shall award the costs of resisting the said appeal to be paid by the Appellant to the Valuer, and the same shall be recoverable in the same manner as any penalties and forfeitures are recoverable under this Act; but if the said jury shall return a verdict that such road or way is not unnecessary, or that the same could not beneficially to the public be so discontinued, stopped up, diverted or altered, or that the party appealing would be injured or aggrieved thereby, the said Court shall allow such appeal, and such public road or way shall not be discontinued, stopped up, diverted or altered; or in case the same shall have been discontinued, stopped up, diverted or altered, the said Court shall make an order restoring the same to its original state, and shall award to the Appellant the costs of prosecuting such appeal, and such costs shall be paid by the said Valuer out of the monies to be raised for the expenses of the Inclosure.

59. Roads to be fenced.

And be it Enacted, That such public roads and ways so to be set out as aforesaid, shall be well and sufficiently fenced on both sides by such of the persons interested in the Land to be inclosed, and within such time as the Valuer acting in the matter of such Inclosure shall direct; and it shall not be lawful for any person to set up or erect any gate across any such road or way, or to plant any trees in or near to the hedges on the sides thereof, at a less distance from each other than *Fifty* Yards, and the Valuer shall form and complete such parts of the said public roads and ways as shall be newly made.

60. Expenses of making and altering Roads.

And be it Enacted, That the expenses attending the purchasing of the soil of all such public roads and ways as aforesaid, or the stopping up, discontinuing, diverting, widening or altering of such roads and ways, and the money compensation in respect thereof upon any Inclosure, shall be paid in such manner as the expenses of such Inclosure shall be directed to be paid.

61. Roads to be repaired by the Parish after certificate by Valuer.

And be it Enacted, That when and so soon as Two or more of Her Majesty's Justices of the Peace for the county in which the Lands to be inclosed shall be situate, shall certify any of the public carriage roads to be set out in pursuance of this Act on any Inclosure to be sufficiently formed and completed, such roads shall thenceforth be kept in repair by such persons and in such manner as the public roads within the said parish are or ought by law to be kept in repair; and every such certificate shall, at the Quarter Sessions of the Peace to be holden for the said county next after the date thereof, be filed of record by the Clerk of the Peace for the said county.

62. Private Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may set out such private or occupation-roads and ways through the Lands to be inclosed as he shall think requisite, for the use of the persons interested in such Lands, or any of them; and any expenses which the Valuer may incur relative to the setting out or formation or completion of such private roads and ways, or any of them, shall, unless the Valuer shall otherwise direct, be paid in the same manner as the other expenses of the Inclosure; and such expenses of the formation and completion of such private roads and ways as the Valuer shall direct, shall be borne by, and after the formation and completion of such private roads and ways, the same shall be maintained and kept in repair by and at the expense of the owners and proprietors for the time being of the Land inclosed, or such of them, and in such shares and proportions, and in such manner, as the Valuer shall direct; and after such private roads and ways shall have been set out and made, the grass and herbage arising thereon shall for ever belong to and be for the use of such persons interested in the Lands to be inclosed as the Valuer shall direct; and in the absence of such direction, shall belong to the proprietors of the Land to be inclosed which shall next adjoin the said roads and ways on either side thereof as far as the crown of the road; and all private or occupation-roads or ways over, through and upon the Lands to be inclosed which shall not be set out as aforesaid, shall be for ever stopped up and extinguished.

63. Rights of Common may be suspended.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure at such time as he shall think proper, but with the approbation of the said Commissioners under their hands and seal, and before the making of the final award by notice on the church-door, to order all or any part of the rights of sheep-walk, common or other rights in or over the Land to be inclosed, or any part thereof, to be extinguished, or the exercise thereof to be suspended during such time as shall be expressed in such notice, and from the time mentioned in such notice such rights shall be extinguished or suspended accordingly; and if during the suspension or after the extinguishment of any

any such rights of sheep-walk, common or other rights as aforesaid, any person shall permit his horses, cattle, sheep or swine to go or depasture upon any of the Lands over which such rights shall be suspended or extinguished, it shall be lawful for the Valuer acting in the matter of the Inclosure, or any other person by his order (testified in writing under his hand), or any of the persons interested in such Lands or in the Inclosure thereof, to distrain such horses, cattle, sheep or swine being upon such Lands or grounds contrary to such order, and to impound the same until the person so offending shall pay to the person so distraining such sum of money as the Valuer shall, by writing under his hand, have previously ordered, not exceeding *Ten Shillings* for each horse or head of cattle, and *Five shillings* for each sheep or swine so distrained; and in case the same shall not be paid within *Seven* Days after the same shall have been impounded, the Valuer is hereby authorized, upon proof of such offence having been committed, and of non-payment of the penalty hereby imposed, to cause the horses, cattle, sheep or swine so distrained or impounded, or such of them as he shall think necessary, or any other goods or chattels of the person so offending, to be sold for raising and paying the penalty aforesaid, together with the costs and charges attending such distress, rendering the surplus (if any) to the owner of such horses, cattle, sheep or swine.

64. Course of Husbandry may be directed.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, at such time as he shall think fit, by notice on the church-door, to direct the course of husbandry and the stint or rule of stocking that shall be observed upon the Land to be inclosed until the time when the Inclosure thereof shall be completed, as well with respect to the laying down, ploughing, sowing, fallowing, manuring and tilling thereof, as to the stocking and feeding of the commonable Lands, and fallows or stubbles upon the same; and to direct such recompense to be made as he shall think right to any person injured by such directions, all which directions shall be binding upon all parties interested, their farmers and tenants; and the Valuer shall impose such pecuniary penalties on every person not conforming to such directions as he shall think necessary, not exceeding the sum of *Five Pounds* per acre in the case of cross-cropping, or withholding from the Land its due proportion of manure, or *Ten Pounds* in any other case, for any one offence; and shall also determine in all cases where the tenant is entitled by agreement or custom to the manure arising from the Lands in his occupation, by whom and in what sum of money such tenant shall be compensated for any such manure left or given up by him; and such penalties and other sums of money shall be recovered in the same manner as by this Act directed for the recovery of penalties.

65. Compensation for growing Crops.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall, by writing under his hand, order what recompense in money shall be made to the owner of any crops growing, according to his agreement or lease, or according to the customary mode of cultivation within the parish in which the Land to be inclosed shall be situate, upon such Land at the time of the division, allotment and inclosure for the said crops, by the person to whom the Land on which such crops are growing shall be allotted; and also what recompense in money shall be paid, and by whom, to any tenant or occupier of Land, as well for the ploughing, tilling, cultivating, manuring or folding any Land to be inclosed for the benefit accruing thereby to the person to whom such Land shall be allotted, or for any loss or disadvantage which any tenant or occupier may sustain by the loss of his following or way-going crops upon the Land to be inclosed; and if in any of the said cases the money to be paid for such recompense be not paid at the time and in the manner ordered by the Valuer, then the same may be recovered by the person entitled thereto from the person liable to pay the same, in the same manner as penalties and forfeitures are recoverable under this Act.

66. Allotment for repair of Roads.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall allot to the Surveyor for the time being of the parish in which the Land proposed to be inclosed, or any part thereof, shall be situate, and to his successors for ever, such part of the Land proposed to be inclosed as by the draft award shall have been directed to be appropriated for supplying stone and other materials for the repairs of roads and ways as aforesaid; and such allotments shall be inclosed and fenced as the Valuer shall direct, and shall, from the confirmation of the award, be vested in the Surveyor of the Highways within the said parish for the time being, in trust for the purposes aforesaid; and the grass and herbage of such allotments shall belong to such persons as by the Valuer shall be directed; and if he shall make no such direction, then such Surveyor shall from time to time let the herbage for the most money that can be obtained for the same, and shall apply the rents and profits towards the repairs of the public roads or highways within the said parish; and the said Surveyor shall account for such rents and profits in the same manner as he is by law accountable for other monies that shall come to his hands in the capacity of Surveyor of the Highways, and shall be subject to the like penalties for the neglect thereof.

67. Allotments for public purposes.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall and may, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot such part of the Lands to be inclosed as by such draft award shall have been directed to be appropriated as a place of exercise and recreation

recreation for the inhabitants of the said parish and neighbourhood; and such allotment shall be made and awarded to the Churchwardens and Overseers for the time being of the parish in which the same shall be situated, and shall be held by the Churchwardens and Overseers for the time being of the said parish for the purposes aforesaid, and shall be in the first instance fenced by the Valuer, the expense in such case to be considered part of the expenses of the Inclosure or by any person to whom adjoining Land shall be allotted; and the fences of such allotment shall for ever afterwards be repaired and maintained by such Churchwardens and Overseers, or by the Churchwardens and Overseers of the several parishes interested therein, in such proportions and manner as shall be directed by the Valuer out of the rents to be received for the herbage of the said allotment, or out of the poor-rate of the said parish or respective parishes or otherwise; and the grass and herbage growing upon such allotment may be from time to time let by the Churchwardens and Overseers, in whom the same shall be vested, and the rents which shall be received by them for the same shall be by them from time to time applied, in the first place, in maintaining and repairing the fences of the said allotment, and subject thereto in aid of the rates for the repair of the public highways in the said parish or respective parishes; and the said Valuer shall in like manner, in pursuance of the directions of or in any manner not inconsistent with the directions of the draft award, set out and allot for the other public purposes mentioned in such draft award such parts of the Land to be inclosed as shall have been directed by the draft award to be set apart for such purposes, and such allotments shall be made to such persons respectively as the Valuer, with the approbation of the Commissioners, shall direct; and in every case in which the Valuer, with such approbation of the Commissioners, shall not think it necessary or proper to direct the same to be otherwise made, such allotments shall be made to the Churchwardens and Overseers of the poor for the time being of the parish in which such allotments shall be situate; and all allotments which shall be made to the Churchwardens and Overseers under this Act, shall be held by the Churchwardens and Overseers of the poor for the time being in the same manner, and with the same legal powers and incidents, as if the same allotments were Lands belonging to the parish, but in trust, nevertheless, for the purposes for which the same shall be allotted as aforesaid, and subject to such directions for the fencing, management and use thereof as the Valuer, with the approbation of the Commissioners, may think fit.

68. Allotment to Lord.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the payment of the expenses by sale of Land in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall allot and award unto the Lord for the time being of the said

said Manor so much and such part of the Land proposed to be inclosed as shall in the judgment of the Valuer be equal (quantity and value considered) to such a part of the residue of such Land as shall be proportioned to his right or interest therein, according to the declaration of the draft award, in lieu of his right and interest in the soil of the said Land, exclusive of any other allotments which may be made to such Lord in lieu of or in satisfaction for any other rights or interests in such Land to which he may be entitled, and which shall have been separately mentioned and declared in such draft award.

69. Allotment of residue.

And be it Enacted, That after the several allotments hereinbefore directed shall have been set out and made, and after making provision for the expenses of the Inclosure by sale of Lands in case the expenses shall be so directed to be paid, the Valuer acting in the matter of any Inclosure shall divide, allot and award all the remainder of the Land to be inclosed unto and amongst the several persons who shall be interested therein, in such shares and proportions as he shall adjudge and determine to be proportionate to the value of the respective rights and interests which shall have been mentioned and declared in the draft award.

70. Separate Allotments to be made in respect of separate Titles.

And be it Enacted, That when any person to whom any allotment shall be made, or Land assigned in exchange by virtue of this Act, shall hold such Land, or the Land in respect of which such allotment or exchange is made under different titles or for different estates, and as to copyhold or customary Land by separate quit-rents, the Valuer in the matter of the Inclosure shall ascertain and distinguish the Land held for each of such estates and under each of such titles respectively, and shall accordingly set out distinct and several allotments for such respective Lands, and distinguish the several estates holden by several and distinct quit-rents.

71. Several Allotments may by consent be laid together.

And be it Enacted, That in case any number of the persons interested in the Land to be inclosed shall desire to have their allotments thrown together, and distinguished by metes and bounds, but not fenced from each other, and of such their desire shall give notice in writing to the Valuer acting in the Inclosure, such Valuer shall set out the several allotments of such persons so giving notice as aforesaid, by metes and bounds, but in one parcel of Land, and without requiring them to make any subdivision fences or other fences, save such ring or outer fences as may be necessary, or as the Valuer may direct to be made for dividing the said parcel of Land from the residue of the Land so to be inclosed.

72. Cultivated Land and Buildings to

Provided always, and be it Enacted, That it shall not be lawful for the said Valuer to allot to any other person than the proprietor thereof

thereof any Land which may be cultivated as orchard or garden, or on which any building may have been erected, or which may have been inclosed by virtue of any agreement between the proprietor thereof and the persons having right of Common over the same, without the consent in writing of such actual proprietor. be allotted to the Proprietor.

73. And be it Enacted, That the Valuer in making the several allotments hereby directed, shall have due regard as well to the situation of the respective houses or homesteads of the persons interested in the Land to be inclosed as to the quantity and quality of the Land to be allotted to them respectively, so far as may be consistent with the general convenience of such persons; and that such Valuer in making the said Allotments shall have particular regard to the convenience of the persons interested in respect of the smallest estates in the Land subject to be inclosed under this Act. Regard to be had to the situation of Homesteads.

74. And be it Enacted, That the several allotments to be made, except the allotments to the Surveyor and Churchwardens and Overseers respectively, and the other allotments for public purposes, shall be inclosed, ditched and fenced at the expense of the respective persons to whom the same shall be allotted, in such manner and within such times as the Valuer shall direct; and the fences so to be made shall for ever afterwards be repaired and maintained by such persons as the Valuer shall direct; and if from the situation, or from any other circumstance, it shall happen that any person to whom any allotment shall be made, shall not have a fair proportion of the boundary, ditches or fences assigned to him to make, it shall be lawful for the Valuer, acting in the matter of any Inclosure, to ascertain and appoint what sum of money shall be contributed by such person towards making the boundary, ditches and fences of the allotments of such other persons as shall have assigned to them to make too great a proportion thereof; and such money shall be paid to such persons and in such manner as by the Valuer shall be directed, and the same may be recovered in the same manner as penalties or forfeitures are recoverable under this Act. Allotments to be fenced.

75. And be it Enacted, That if at any time before an allotment shall have been made by the Valuer, any person shall sell his right or interest in the Land to be inclosed or any part thereof to any person, the Valuer shall, upon such sale being certified to him in writing by the vendor, make an allotment of Land to the purchaser or to his heirs or assigns in respect of the right or interest so sold; and every such purchaser or his heirs or assigns shall from the confirmation of the final award hold and enjoy the Land so to be allotted to him in such manner as the vendor might or ought to have done, in case such sale had not been made; and it shall be lawful for any Allotments may be made to purchasers.

person who shall be entitled to any allotment under this Act, to devise, convey, surrender or otherwise assure the same allotment or all or any part of his interest therein at any time before the confirmation of the final award; and every such devise, conveyance, surrender and assurance shall be of the same validity as if the same had been made after the confirmation of the said award; and it shall be lawful for any person entitled to any allotment to sell, dispose of or convey the estate in right of which he may be entitled to such allotment, separate from and retaining to himself such allotment, or the right thereto; and the Valuer is hereby required to award such allotment accordingly.

76. Allotments to be made to representatives of parties dying.

And be it Enacted, That if any person interested in any Inclosure under this Act shall die before the same shall have been completed, the powers and authorities hereby vested in the Commissioners, Assistant Commissioner and Valuer shall not be thereby determined or suspended, but they shall proceed in the execution of such powers and authorities in such manner as they might have done in case such person had not died; and the allotment which might have been made to the person so dying shall be made to such person as by the law shall become entitled to the same, and shall be accepted and fenced by such party according to the directions contained in the award of the Valuer, and he shall be liable to the charges and expenses and other conditions of the Inclosure.

77. Old Inclosures may be allotted with consent.

And be it Enacted, That it shall be lawful for the Valuer acting in the matter of any Inclosure, with the consent in writing and at the request of the person interested in any old inclosed Lands, or Lands holden in severalty, or otherwise not subject to be inclosed under the general provisions hereinbefore contained, to order and direct such old inclosed Lands or other Lands as last aforesaid, to be considered as allottable and parcel of the Land to be inclosed; and such allowance shall be made to the person interested in such Lands on account of the situation or other beneficial circumstances thereof as the Valuer shall adjudge to be just and reasonable; and he shall allot and award unto the person so interested in such old inclosed Lands, or other Lands as aforesaid, so much and such part of the Land to be inclosed as he shall think reasonable and just.

78. Partitions may be made.

And be it Enacted, That where any persons interested in Land to be inclosed under this Act shall be so interested in undivided moieties, or as joint tenants, coparceners or tenants in common, it shall be lawful for the Valuer, upon the request in writing of any of the persons so interested in undivided moieties, or as joint tenants, coparceners or tenants in common, to make partition and division of the Lands or allotments coming to such persons so interested, and to allot the same to such owners and proprietors in severalty; and immediately after the

the said allotments shall be so made and declared, the same shall be holden and enjoyed by the persons to whom the same shall be allotted in severalty, in the same manner and subject to the same uses and trusts as the undivided parts or shares of such estates would have been holden and enjoyed in case such partition and division had not been made; and every such partition shall be specified in the final award, and every such partition shall be good, valid and effectual to all intents and purposes whatsoever.

79. Costs of Partition.

And be it Enacted, That all costs and expenses attending any partition to be made by virtue of this Act, shall be borne and defrayed by the several proprietors of, or persons interested in, the estates which shall be so parted, in such manner and proportions as the Valuer shall order; and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

80. Exchanges.

And be it Enacted, That it shall be lawful for the Valuer to allot and award any Land to be inclosed in exchange for any other Land within the parish in which the Land to be inclosed shall be situate, or any adjoining parish: Provided always, That all such exchanges be made with the consent in writing of the persons interested in the Lands so exchanged, and every such exchange so to be made shall be good, valid and effectual in the law to all intents and purposes whatsoever, and shall be specified and declared in the final award: Provided also, That no exchange shall be made of any Lands held in right of any church or chapel or other ecclesiastical benefice without the consent, testified in writing, of the bishop of the diocese in which such Lands are situate: Provided also, That all costs and expenses attending the making and completing of any such exchanges shall be borne by the several parties making such exchanges, in such manner and in such proportions as the Valuer shall direct, and in case of non-payment thereof, shall be recovered in the manner directed with respect to the recovery of penalties and forfeitures.

81. Wills and Settlements not to be affected.

And be it Enacted, That nothing in this Act contained shall extend to revoke, make void or alter any will, settlement, uses or trusts, or to prejudice any person having any right or claim of dower, jointure, annuity, portion, debt, charge, rent or incumbrance upon or affecting any of the Land to be inclosed, or which shall be exchanged or given in partition in pursuance of this Act; but as well the Land allotted as the Land which shall be assigned in exchange, partition, or as a compensation for any other estate or right by virtue of this Act, shall immediately after such allotment, exchange or partition, be and enure, and the several persons to whom the same shall be allotted or given in exchange or partition as aforesaid, shall

thenceforth stand and be seised and possessed thereof respectively to and for such and the same estates, uses, trusts, intents and purposes, and subject to the same conditions, charges and incumbrances as the several Lands in respect whereof such allotments, exchanges and partitions shall have been made would have stood limited to and for, or been subject to, in case the same had not been allotted, exchanged or given in partition as aforesaid, and as if this Act had not been made, save and except such leases and tenancies at rack-rents as shall become void by virtue of this Act, and such rights of common and other rights as are intended to be extinguished by the Inclosure, and subject nevertheless to all such mortgages and sales as shall be made by authority of this Act.

82. Tenure of the Allotments.

And be it Enacted, That all such Land as shall be taken in exchange or on partition or be allotted by virtue of this Act, shall be held by the person to whom they are given in exchange or on partition or allotted, under the same tenures, rents, customs and services as the Land in respect of which such Land shall have been given in exchange or on partition or allotted, would have been held in case no such exchange, partition or inclosure had been made; and the Land taken in exchange or on partition or allotted in respect of freehold shall be deemed freehold, and the Land taken in exchange or on partition or allotted in respect of copyhold or customary Land, shall be deemed copyhold or customary Land, and shall be held of the Lord of the same Manor under the same rent and by the same customs and services as the copyhold or customary Land in respect of which it may have been taken in exchange or on partition or allotted was or ought to have been held, and shall pass in like manner as the copyhold or customary Land in respect whereof such exchanges, partitions or allotments shall be made; and the Land given in exchange or on partition or allotted in respect of leasehold Land, shall in like manner be deemed leasehold, and shall be held under the same rents and covenants as the Land in respect of which it may have been allotted was held; and the remainder or reversion thereof shall be vested in the same lessor respectively as the remainder or reversion of such other Land was vested before the exchange, partition or allotment, except where otherwise particularly directed by this Act.

83. Leases at Rack-rent may be voided.

And be it Enacted, That immediately after the allotments herein directed to be made on any Inclosure shall have been marked and staked out, the Valuer acting in the matter of such Inclosure may direct the same to be entered upon by the persons respectively for whom the same shall be intended; and immediately after the Valuer shall so direct them to be entered upon, all leases, agreements and tenancies at rack-rent subsisting of any part of the Land to be inclosed, or which shall be exchanged in pursuance of this Act, or any common right thereon, shall,

shall, so far only as respects the Land to be divided and allotted or exchanged or common right, cease and be void at such time or times as the Valuer shall, by writing under his hand, direct or appoint, so as the respective lessors or landlords of such Land do, before or at the respective times at which such leases, agreements or tenancies shall be directed to cease, make and pay such satisfaction to the respective lessees or tenants for the loss which shall be sustained by the determination of such leases, agreements and tenancies respectively, so far as regards the Land or common right, the leases, agreements and tenancies whereof are hereby authorized to be determined as shall be mutually settled and agreed between them, or as the Valuer, being required by either of the parties, shall ascertain and direct; and the Valuer, being so required, is hereby empowered and directed, by writing under his hand, to apportion a reasonable and proportionable part, having regard to the season of the year, of the rent reserved on any such lease, agreement or tenancy for or in respect of the time which shall have elapsed between the last day on which any payment of the rent shall have become due and the determination of any such lease, agreement or tenancy, and such part of the rent shall be recoverable by such ways and means as may by law be used for the recovery of rent in arrear; and the Valuer is hereby empowered and directed, in every case where such Land or common right shall be held by virtue of any such lease, agreement or tenancy, together with other Lands or hereditaments, by one entire rent, by writing under his hand, to apportion and determine what part of such rent shall be deducted in respect of the Land or common right in such lease, agreement or tenancy comprised, as to which the same shall be determined as aforesaid, and from what time such deduction shall take place; and the rest of the rent reserved on any such lease, agreement or tenancy shall during the remainder of the term thereof be the rent of and for the residue of such Lands and hereditaments, and shall be payable and recoverable in like manner as the entire rent reserved by such lease, agreement or tenancy shall immediately before such apportionment be payable and recoverable; and the lessor or reversioner shall in respect of such apportioned rent, and in respect of the residue of such Lands and hereditaments, have the benefit and advantage of the provisoes and conditions which would have been applicable to the entire rent, and to all the Lands and hereditaments comprised in such lease, agreement or tenancy in case such lease, agreement or tenancy had not been determined as to any part of such Land.

84. Trees to be allotted with the Land.

And be it Enacted, That the timber-trees and other trees and underwood standing and growing upon any Land to be inclosed shall be allotted and go along with the Land whereon they respectively stand, and shall be deemed the property of the several persons to

whom the same Land shall be respectively allotted, such person paying to the owner of such trees and underwood such sums of money for the same, and at such time or times and place or places, as the Valuer shall by writing under his hand direct; but if the parties who are to make such respective payments shall neglect or refuse to make the same accordingly, then it shall be lawful to and for the respective parties who shall be entitled to have and receive such payments to enter on the said Lands, and cut down, take and carry away to their own use the said trees and underwood in respect of which the said payments were respectively to be made to them at any seasonable time or times within *One Year* next after such neglect or default, doing as little damage on the Land as may be.

85. Cattle not to be depastured on Roads.

And be it Enacted, That no person shall graze or keep any horse, beast, cattle, sheep or swine upon any of the roads or ways which the Valuer shall order to be set out, and which shall be fenced on both sides for the space of *Seven* Years next after the execution of the final award; and every owner of Land to be inclosed, his servants and labourers, and also every peace officer and parish officer of the parish in which the Land shall be situate for the time being, is hereby empowered to take and impound any such horse, beast, cattle, sheep or swine which shall be found so grazing as aforesaid, as cattle damage feasant: Provided always, That nothing herein contained shall prevent the proprietors of the Land which shall next adjoin the private roads and ways from depasturing their cattle thereon, so far as the frontage of their respective Land extends.

86. Alteration may be made in Allotments.

And be it Enacted, That it shall be lawful for the Valuer acting in any Inclosure, at any time before the confirmation of the final award, with the approbation or by the direction of the Commissioners, to make any alterations which he may think right and expedient in the allotments or in the fences which he may have set out and ordered, or in the private roads he may have set out, or in any of the orders or directions relating thereto which he may have made in the matter of such Inclosure; and in case any person shall be injured by any such alteration on account of any expenses he may have incurred or otherwise, the Valuer shall ascertain and determine what recompense shall be made to him for such injury, and shall either pay the amount thereof out of the monies raised for the expense of the Inclosure, or shall direct by whom and in what manner such recompense shall be made; and in case of non-payment thereof, the same shall be recovered in the same manner as penalties and forfeitures are recoverable under this Act.

87. Application of Compensation Money of Parties under disabilities.

And be it Enacted, That when any money is under the provisions of this Act directed to be paid for the purchase of any Land, or

of

of timber or wood growing on any Land, which shall belong to any tenant for life or in tail, or to any feoffee in trust, executor or administrator, husband, guardian, committee or trustee, for or on behalf of any infant, idiot, lunatic, feme covert or cestuique trust, or to any person whose Lands are limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, or to any corporation not being legally and equitably entitled to sell and dispose of such Land, timber and wood, it shall be lawful for the Valuer out of such money to defray the proportion (if any) of the Inclosure expenses which shall be charged upon any of the Lands of the respective parties in possession of the Land which shall be so purchased, or on which such timber or wood actually grew, and also to defray the expense of any permanent improvement, such as building, subdividing, dividing, draining or planting, and the like, which shall in the judgment of the Valuer be proper to be made, and shall be made under his direction upon any Land to be under the powers of this Act allotted to such parties.

88. Investment of Surplus when 200*l.* or upwards.

And be it Enacted, That if the surplus of any such monies shall amount to or exceed the sum of Two hundred Pounds, the same shall, with all convenient speed, be paid into the Bank of England, in the name and with the privity of the Accountant-General of the Court of Chancery, to be placed to his account there, exparte the Commissioners, pursuant to the method prescribed by an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the First, intituled, "An Act for the better securing the Monies and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of East India Bonds and the Endorsements thereon, as likewise the Endorsements on South Sea Bonds;" and pursuant to the general rules and orders of the said Court, and without fee or reward, according to an Act passed in the twelfth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act to empower the High Court of Chancery to lay out upon proper Securities any Monies not exceeding a Sum therein limited out of the common and general Cash in the Bank of England, belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-General of the said Court;" and shall, when so paid in, there remain until the same shall, by order of the said Court made upon a petition, in a summary way, by the parties who would have been entitled to the rents and profits of the said Land, be applied to the following purposes or any of them; (that is to say)

The redemption or discharge of the Land Tax, or of any debt or other incumbrance affecting the same Land, or affecting other Lands standing settled therewith, to the same or the like uses or trusts;

The purchase of other Land to be conveyed or settled upon the like uses or trusts, or such of them as shall be then existing, undetermined or capable of taking effect.

89. Payment of Dividends in the mean-while.

And be it Enacted, That in the mean time, and until such application shall be made, the said money may, by order of the said Court to be made upon the like petition, be invested by the said Accountant General in his name, in the purchase of Three Pounds per Centum Consolidated, or Three Pounds per Centum Reduced Bank Annuities, or of Government Securities; and the dividends or interest of such Annuities or Securities shall from time to time be paid by order of the said Court to the parties who would, for the time being, have been entitled to the rents and profits of the Lands so to be purchased, conveyed and settled.

90. Application of money under 200*l*

And be it Enacted, That in case the surplus of such monies shall be less than the sum of Two hundred Pounds, and shall exceed or amount to the sum of Twenty Pounds, the same shall, at the option of the parties who for the time being would have been entitled to the rents and profits of the said Land, or their Guardians or Committees in case of infancy, idiocy, lunacy or other incapacity, with the approbation of the Commissioners, to be signified in writing under their seal, be paid into the Bank of England, in the name and with the privity of the said Accountant-General of the Court of Chancery, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option and with the like approbation to Two Trustees, to be nominated by the said parties who for the time being would have been entitled to the rents and profits of the said Land as aforesaid, such nomination to be approved of by the Commissioners, and such nomination and approbation to be signified in writing under the hands (or common seal, as the case may be) of the nominating parties, and under the seal of the Commissioners; and the money so paid to such Trustees, and the dividends and produce arising therefrom, shall be by them applied in like manner as is hereinbefore directed, with respect to money so to be paid into the Bank of England, but without obtaining or being required to obtain any order of the said Court touching the application thereof.

91. Under 20*l*.

And be it Enacted, That in case the surplus of such monies shall be less than Twenty Pounds, the same shall be paid to the parties for the time being entitled to the rents and profits of the said Land for their own use and benefit; or in case of infancy, idiocy, lunacy or other incapacity, then such money shall be paid to their Guardians, Committees or Trustees for the use and benefit of the parties respectively entitled thereto.

And

92. Report of the Valuer.

And be it Enacted, That the Valuer acting in the matter of any Inclosure shall as soon as conveniently may be, after the division and allotment of the Land to be inclosed shall be completed, draw up a report in writing, with a map thereunto annexed, which shall specify all the allotments, exchanges and partitions made in the matter of such Inclosure, and all roads, ways and works set out or directed to be made by the said Valuer; and such report shall contain all such particulars in relation to such allotments, roads, ways and works as are by this Act directed, and all such other directions and determinations authorized by this Act, as the said Valuer shall think proper for the purposes of the Inclosure; and the map to be annexed to such report shall comprise and show the Land to be inclosed and the Lands exchanged, and also the Lands in respect of which any allotments of the Land inclosed shall have been made, and shall distinguish by proper references the allotments made in respect of the several Lands respectively, and such other particulars as the Commissioners shall by any general or special instructions in relation to such report direct the Valuer to set forth therein; and such report shall be signed by the Valuer, and shall, together with the map thereunto annexed, be sent to the Office of the Commissioners.

93. Deposit of Report.

And be it Enacted, That as soon as the report of the Valuer shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited at some convenient place within the parish in which the Land to be inclosed or some part thereof shall be situate, for the inspection of all persons interested in such Land; and shall forthwith cause notice to be given in such manner as to them shall seem fit, where the said copy may be inspected; and shall also in such notice appoint some convenient place, and such times as they shall think necessary (the first not earlier than *Twenty-one* Days from the first giving of such notice), for holding a meeting to hear objections to any allotment, direction, determination or matter in the report; and the Commissioners or some Assistant Commissioner at such meeting as aforesaid, shall hear and determine any objections which may be then and there made to any such allotment, direction, determination or matter by any person interested therein, or adjourn the further hearing thereof, if they or he shall think proper, to a future meeting; and may, if they or he shall see occasion, direct any further valuation or survey of the Land or any part thereof, and take such other measures for ascertaining the justice and propriety of the determinations and directions of the Valuer, as to the Commissioners or Assistant Commissioner shall seem proper; and from time to time, if they or he shall see occasion, fix further meetings for the hearing and determining of objections, of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed, with regard to the original meeting; and when the said Commis-

sioners or Assistant Commissioner shall have heard and determined all such objections, and made such inquiries as the Commissioners shall think fit in relation thereto, the Commissioners shall approve such report, or cause the allotments, directions, determinations and matters therein mentioned, or any of them, to be amended as they shall see occasion.

94. Final Award.

And be it Enacted, That after such proceedings as aforesaid shall have been had, and all such objections to such report (if any) shall have been finally disposed of, and such amendments (if any) shall have been made in the allotments, directions and matters therein contained as aforesaid, the Commissioners shall cause to be drawn up and engrossed on parchment the final award in the matter of such Inclosure, which shall contain or set forth the draft award in the matter of such Inclosure, and also such report if so approved as aforesaid, or the allotments, exchanges, directions and matters therein contained as the same shall have been amended as aforesaid, and shall annex to such engrossment the map referred to by such report as aforesaid; and shall confirm such final award, with the date of such confirmation thereunto annexed, under the hands and seal of the Commissioners.

95. Final Award conclusive.

And be it Enacted, That such confirmation as aforesaid shall be conclusive evidence that all the directions of this Act in relation to such final award, and to every allotment, exchange, partition and matter therein set forth and contained, which ought to have been obeyed and performed previously to such confirmation, shall have been obeyed and performed; and no such final award shall be impeached by reason of any mistake or informality therein, or in any proceeding relating thereunto, or on account of any want of any consents required by this Act, or on account of defects or omissions in any previous proceeding whatever in the matter of the Inclosure; and every allotment, exchange, partition, direction, matter and thing specified and set forth in such final award as aforesaid, shall be binding and conclusive on all persons whomsoever.

96. Allotments to be in compensation of previous rights.

And be it Enacted, That the several allotments which shall upon any Inclosure under this Act be allotted to the several persons who shall be entitled to the same, shall when so allotted be and be taken to be in full bar of and satisfaction and compensation for their several and respective Lands, rights of Common, and all other rights and properties whatsoever which they respectively had or were entitled to in and over the said Lands immediately before such Inclosure; and that from and immediately after the confirmation of the final award by the Commissioners, or at such earlier time as the Valuer, with the approbation of the Commissioners, shall by notice on the church-door direct, all rights of Common, and all rights whatever by the Inclosure intended

intended to be extinguished, belonging to or claimed by any person whomsoever in or upon such Lands, shall cease, determine and be for ever extinguished.

97. Allotments may be subdivided by supplemental order.

Provided always, and be it Enacted, That when any final award so confirmed as aforesaid shall not have distinguished the several tenures of any of the Lands therein mentioned, or the different estates or titles for or under which the same shall be held, or shall have set out and awarded an aggregate allotment in any case in which there should have been set out and awarded several and distinct allotments, it shall be lawful for the Commissioners at any time within *Twelve* Months after the confirmation of the award, upon request in writing to them made by any person interested in any such aggregate allotment, to do all such acts as may be necessary for supplying such omission, and for subdividing such aggregate allotment, and for that purpose to examine witnesses, and proceed as if the said award had not been confirmed; and by any order or instrument under their hands and seal, to subdivide any aggregate allotment into separate allotments, and to distinguish and set out the allotments and Lands held by different tenures, and also the allotments and Lands held by, for or under different estates or titles respectively, in the same manner as by this Act is authorized and required to be done in cases where such allotments and Lands are directed to be ascertained, distinguished and set out by the Valuer; and every such separate instrument shall have the same power and effect as if it were contained in the said award; and such instrument shall be engrossed and deposited with the final award, and shall thenceforth be deemed to be part thereof to all intents and purposes; and all the expenses which shall be reasonably incurred in or about any such subsequent inquiry or separate instrument as aforesaid, and the engrossment thereof, shall be paid by the party who shall have requested the Commissioners to make and execute the same, or by his executors or administrators.

98. Regulated Pastures may be set out.

And be it Enacted, That it shall be lawful for the Commissioners acting in the matter of any Inclosure, on the application in writing of persons interested in any Land subject to be inclosed under this Act whose interest shall exceed in value *One-half* of the whole interest in such Land (such application to be made at any time before the instructions to the Valuer shall have been delivered to him by the Commissioners under the provisions hereinbefore contained), to direct such Land or any part thereof to be converted into and used as a regulated pasture, to be stocked and depastured in common by the persons interested therein in proportion to their respective rights and interests, as the same shall have been or shall be determined by such draft award as aforesaid; and in case part of such Land only shall be

so directed to be stocked and depastured in common, the Valuer shall, subject to the instructions which shall be given to him under the provisions of this Act, ascertain and set out the part which shall be so used as a regulated pasture, and shall direct how and at whose expense the same shall be fenced and divided from the residue of such Land; and the Valuer acting in the matter of such Inclosure shall in every case where Land shall be so directed to be used as a regulated pasture, ascertain and allot the respective stints or rights of pasturage (specifying the respective numbers of the respective kinds of stock or animals to be admitted to the pasture in respect of such respective stints or rights of pasturage, with such option as to equivalent numbers of the respective kinds of stock and animals as he shall think just, and if he shall think fit, specifying the time during which such stock or animals may be kept on the pasture), as he shall adjudge and determine to be proportionate to the value of the respective rights and interests of the persons interested as aforesaid, which shall have been mentioned and declared in the draft award; and the Commissioners shall frame such directions as they shall think fit for guiding the Valuer in the correct specification of such stints or rights: Provided always, That in every case in which part only of the Land subject to be inclosed under this Act shall be so directed to be used as a regulated pasture, and the residue thereof to be divided and allotted in severalty, it shall be lawful for such Valuer, having regard to the convenience of the persons interested in such Land, to award to any person whose right and interest shall have been mentioned and declared in the draft award, either a stint or right of pasture, or an allotment in severalty only, or both a stint or right of pasture and an allotment in severalty, so as such stint or right only or such allotment only, or (as the case may be) such stint or right and allotment together, be in the judgment of the Valuer proportionate to the right and interest in respect of which the same shall be awarded: Provided also, That in any case in which it shall appear to the Valuer that the proportionate right or interest of any person is too small to be conveniently compensated by a stint or right of pasture, or that it is not practicable wholly to compensate such person by a stint or right of pasture, and the circumstances of the Inclosure will not admit, in the judgment of the Valuer, of an adjustment or compensation by an allotment in severalty, it shall be lawful for such Valuer, for the purpose of compensation or adjustment, to direct a sum of money to be paid to such person in lieu of or (as the case may require) in addition to the award of a right of pasture or stint; and such sum of money shall be paid out of the monies applicable to the payment of the expenses of the Inclosure.

99. Conversion into regulated Pasture to be deemed an Inclosure.

And be it Enacted, That all the provisions and powers hereinbefore contained in relation to public and private roads, ways and works, and all

all other the powers, provisions and directions, penalties and forfeitures applicable to the case of an Inclosure under this Act, and the provisions and directions concerning the report of the Valuer and the approval thereof, and the amendment of the matter thereof, and the final award and the confirmation thereof and the effect thereof, shall be applicable to the case where the Land subject to be inclosed shall be directed to be used as a regulated pasture; and the word "Inclosure" shall in every case in this Act, where the context is not repugnant to such construction, include the conversion of Land subject to be inclosed into such regulated pasture, and the proceedings in relation thereto.

100. Rule of Rating to be established.

And be it Enacted, That in every case in which Land shall be directed to be converted into and used as regulated pasture under this Act, the Valuer acting in the matter of the Inclosure shall determine and direct the proportionate shares or aliquot parts which the respective owners, for the time being, of the several stints or rights of pasture shall be liable to pay of any sum of money which shall be raised by way of rate on such owners under the provisions of this Act; and such determination and direction, in case the same shall be approved, or as the same may be amended by the Commissioners, shall be for ever after observed in every rate to be made under the provisions of this Act, and shall be the rule also, according to which the proportionate values of the stints shall be determined in taking the votes of the owners of stints under the provisions hereinafter contained.

101. Property of Soil of regulated Pastures.

And be it Enacted, That the right of soil of and in all Land which shall be converted into regulated pastures, shall, subject to the rights given by this Act and the final award in the matter of such Inclosure, be vested in the persons who, under the directions and determinations of such final award, shall be the owners of the stints or rights of pasture therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act as tenants in common.

102. Election of Field reeves.

And be it Enacted, That where any Land shall have been converted into a regulated pasture under the provisions of this Act, a meeting shall be called by the Commissioners of the owners of the stints or rights of pasture at such time after the confirmation of the final award as the Commissioners shall, by notice on the church-door, appoint; and the major part in value of such owners present at such meeting shall elect a fit person or persons to be field reeve or reeves of such regulated pasture, and every field reeve so to be elected as aforesaid, or to be elected or re-elected at any subsequent meeting, shall continue in office until the expiration of *Fifteen* Days after the day of the annual meeting of such owners then next following, and no

longer, unless he shall be re-elected at such annual meeting; and such owners shall ever after such first meeting meet for the election of a field reeve or reeves on the First Monday in February in every year, and the owners assembled at such meetings shall from time to time fix, increase or diminish the salary or payment to be made to every such field reeve, and may appoint or authorize any field reeve to appoint and employ herds and assistants as such owners may think fit; and any such field reeve may be removed by Four-fifths in value of the owners of stints present at any meeting called for the purpose by *Fourteen* days' notice on the church door, under the hands and seals of any Two Justices of the Peace; and in case any such field reeve shall die while he shall hold such office, or shall be removed as aforesaid, it shall be lawful for the majority in value of owners of stints or pastures present at any meeting, which upon such vacancy any Two owners may call, by *Fourteen* days' notice on the church-door, to appoint a field reeve in his place, who shall hold the office until the expiration of *Fifteen* Days after the then next annual meeting; and a certificate in writing, under the hands and seals of Two Justices of the Peace of the election of any field reeve (which certificate any Two Justices of the Peace are authorized, if they think fit, to give on the request and upon the declaration of any owner of such stints present at the meeting at which the election shall have taken place), shall in all matters and proceedings whatsoever, in which any acts done by any field reeve in the execution of his office shall be in question, be evidence that he was duly appointed field reeve.

103. Duties of Field reeves.

And be it Enacted, That the field reeve or reeves for the time being of every such regulated pasture shall, subject to such orders and instructions in writing as may from time to time be agreed on by the majority in value of the owners of such stints as aforesaid, at their yearly meetings, regulate the times in each year during which stock or animals shall be admitted to and excluded from such regulated pasture, and shall maintain and keep in order the fences, gates, ditches, drains, watercourses, embankments, jetties and weirs, or make any new fences, gates, ditches, drains, watercourses, embankments, jetties or weirs, and do all works necessary for the maintenance and improvement and good order of such regulated pasture; and shall and may distrain all stock and animals found thereon, contrary to the regulations of such pasture, and do all other acts for the maintenance and improvement of such regulated pasture, and the convenient use and occupation thereof, as the field reeve or reeves, subject to such instructions as aforesaid, may think fit; and where there shall be any buildings on such regulated pasture, or where the majority in value of the owners of stints at any yearly meeting shall direct that any buildings be erected thereon, such field reeve or reeves shall or may maintain and keep in repair such buildings, or cause such buildings to be erected in pursuance of such

such direction, and let the same from year to year, or under such instructions as aforesaid, for any term of years, and shall receive the rents thereof; and such rents shall be applicable in the first place to the same purposes as the rates hereinafter authorized to be raised on the owners of stints are made applicable, and the residue (if any) shall be paid to the owners of stints in proportion to the respective liability of their stints to such rates.

104. Provision for rateable increase or diminution of rights.

And be it Enacted, That when it shall appear to the majority in value of the owners of stints present at any annual meeting that the condition of the pasture would admit of an increase of the respective rights of pasture thereon, or would require a diminution of such respective rights, it shall be lawful for such majority of the owners so present to direct that the respective number of stock or animals to be admitted to the pasture in respect of the several rights be increased, or, as the case may be, diminished, rateably, to such extent as they shall think fit: Provided always, That in case it shall happen that the right of any such owner shall not be sufficient to admit of a rateable increase or diminution, such annual money-payment shall be made to such owner in lieu of increase of his right, or, as the case may be, charged on such owner in lieu of the diminution of his right, as such majority shall award; or in case the person to or on whom such money-payment shall be awarded or charged shall think the sum awarded insufficient, or the sum charged excessive, then as any Two Justices of the Peace shall, upon the complaint of such person, and after summons of the field reeve or one of the field reeves of such pasture, which may be in the form in the Schedule to this Act, and on hearing in a summary way the matter in difference, think reasonable, and order to be paid, and such order may be in the form in the Schedule to this Act; and every such money-payment payable in lieu of increase of right shall be paid annually by the field reeve out of the monies raised by the rate made for the expenses of such regulated pasture; and the money charged on any such owner shall be recoverable as a rate on owners of stints is hereby made recoverable.

105. Expenses to be raised by Rate.

And be it Enacted, That all salaries and allowances to field reeves and other persons and all other expenses in and about the management of every such regulated pasture, and the repairs and erection of buildings thereon, under the directions of such meetings of owners as aforesaid, and all other expenses of such regulated pasture, shall be paid and defrayed by the owners of the respective stints therein; and for that purpose it shall be lawful for the field reeve, under the directions of any such meeting of owners, from time to time to make a rate on the respective owners for such sum as the majority of owners present at such meeting shall think requisite; and every such rate shall be apportioned and paid by the owners according to the rule of rating established

for such regulated pasture, and shall be paid to the field reeve on demand thereof; and in case the same shall not be paid within *Fourteen* Days after demand thereof, shall be recoverable by distress; and it shall be lawful for the field reeve to exclude from such regulated pasture the stock or animals of any owner or his tenant whose proportion of the rate shall be in arrear and unpaid for *Fourteen* Days after demand thereof, until the proportion of such rate so in arrear shall be fully paid; and any such demand or distress may be made of or on the occupier of any such stint as if the occupier were the owner liable to the payment of such rate, and such rate may be paid by any such occupier on demand thereof, and the money so paid by such occupier shall be deemed a payment on account of his rent, and shall be allowed by his landlord accordingly.

106. Power to apply the Act to Pastures already stinted.

And be it Enacted, That where any Land shall be already occupied as a gated or stinted pasture, and any of the persons interested in such gated or stinted pasture, whose interests shall not be less in value than *Two-thirds* of the whole interest, shall be desirous that such gated or stinted pasture should be subject to the provisions of this Act concerning regulated pastures, without being subject to the other provisions concerning lands subject to be inclosed under this Act, and shall make application in writing to the Commissioners to take proceedings for that purpose, it shall be lawful for the Commissioners, or an Assistant Commissioner, to make such inquiries as may appear necessary to the Commissioners, to ascertain the proportionate rights and interests of the several persons interested in such gated or stinted pasture, and shall frame, or cause to be framed, a draft award containing a declaration of the proportionate rights of such persons so interested; and shall also cause to be ascertained by any Valuer to be appointed or approved by the Commissioners for that purpose, the respective rights of pasture to which, having reference to the productiveness of such gated or stinted pasture, the several persons interested therein may, in the judgment of such Valuer, be entitled, together with such declaration as hereinbefore mentioned as to the proportionate liability to rates under this Act, of the occupiers of stints or rights of pasture, and in like manner as in case of the conversion into regulated pasture of Land subject to be inclosed upon an Inclosure under this Act; and the Commissioners shall hear, or cause to be heard by an Assistant Commissioner any objections to the draft award and to the report of the Valuer respectively, and approve or amend the draft award and such report respectively, as they shall think fit; and the Commissioners shall frame and cause to be engrossed a final award, setting forth such draft award and the matter of such report respectively, and shall confirm the same, with the date of the confirmation under their hands and seal; and from and after the confirmation of such award, such gated and stinted pasture shall be subject to all the provisions herein contained concerning Land

subject

subject to be inclosed, converted into and used as regulated pasture, and shall be rateable under such provisions according to the rule of rating as set forth in such final award, and such final award shall be as binding and conclusive as if the same had been made and confirmed on an Inclosure under this Act.

107. Expenses of application of Act to Pastures already stinted.

And be it Enacted, That all the expenses of or attending the proceedings for subjecting Lands already used as gated or stinted pasture, to the provisions of this Act, concerning Lands subject to be inclosed, converted into or used as regulated pasture, shall be paid and borne by the persons interested therein, in proportion to their respective liabilities to rates under this Act, according to the rule of rating established in respect of such gated or stinted pasture under this Act; and shall be paid at such time and place, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and shall be recoverable in such and the same manner as the expense of an Inclosure made in pursuance of this Act.

108. Power to enter Land for Surveys, &c.

And be it Enacted, That for surveying and valuing any Land to be inclosed or otherwise dealt with under this Act, and for the other purposes of this Act, it shall be lawful for the Commissioners or an Assistant Commissioner or Valuer, or any person or persons to be appointed by such Commissioners, Assistant Commissioner or Valuer to make any survey, admeasurement, plan or valuation with assistants and servants, and at any time or times whatsoever, until the Inclosure or other proceedings under this Act shall be completed, to enter into, view and examine, survey or admeasure all and every part of the Land to be inclosed or dealt with, and also any Lands necessary or proper to be surveyed or valued for the purposes of such Inclosure, and to do or cause to be done any act or thing necessary for putting this Act into execution.

109. Expenses of Inclosures.

And be it Enacted, That the allowances and payments to be made to and by the Valuer, and all other the expense of every Inclosure, except the allowances and salaries to the Assistant Commissioners, Secretary, Assistant Secretaries, Clerks, Messengers and officers of the Commissioners, and the travelling and other expenses of the Commissioners and Assistant Commissioners, and except any expenses which the Commissioners or Assistant Commissioner, or any court under the powers of this Act have ordered to be otherwise paid, shall be borne and defrayed by the several persons interested in the Lands to be inclosed (except the Surveyors of Highways, Churchwardens and Overseers and persons to whom Lands shall be allotted for public purposes, in respect of the allotments hereinbefore authorized or directed to be made to them respectively), in such shares and proportions,

portions, and shall be paid at such time and place, or respective times and places, and to such persons as the Valuer, with the approbation of the Commissioners, signified by writing under their hands and seal, shall direct; and such Valuer shall give notice requiring payment of the respective shares and proportions of such expenses on the church-door, or deliver to the respective persons liable to the payment of such expenses, at least *Fourteen* Days before the time appointed for such payment, a copy of such order; and the Valuer shall from time to time make estimates of all such expenses, and raise the amount of such estimates at such times as he shall, with such approbation of the Commissioners, deem proper, either before or after the confirmation of the final award.

110. Remedies in case of non-payment of Expenses.

And be it Enacted, That if any person shall refuse or neglect to pay his proportion of such expenses within the time and to such person as the Valuer shall appoint, it shall be lawful for the Valuer to recover the same, together with lawful interest, to be computed from the day on which the same ought to have been paid, by action at law in his own name, in any of Her Majesty's Courts of Record at Westminster; or it shall be lawful for him by warrant directed to any person whomsoever, to cause the same, with such interest thereon as aforesaid, to be levied by distress, or it shall be lawful for the Valuer, or any person authorized by him immediately after such neglect or refusal, to enter into and upon the premises so to be allotted to such person, and demise the same, or to demise any stint or right of pasture allotted to such person, and receive the rents and profits thereof respectively, until thereby or otherwise such share or proportion, with lawful interest as aforesaid, and also all the costs and expenses attending such entry upon, and demise and receipt of the rents and profits of the said premises, shall be fully paid and satisfied.

111. Power to make additional Rate.

Provided always, and be it Enacted, That if at any time after the allotments shall have been staked out it shall appear to the Valuer, either before or after the confirmation of the final award, that the money to arise by any previous rates shall not be sufficient to defray the expenses aforesaid, the deficiency shall, with such approbation of the Commissioners as aforesaid, be made up and raised from time to time by a rate to be made and levied upon the several persons interested in the Lands to be inclosed (except as aforesaid), in such shares and proportions, within such time, and to be paid to such persons as the Valuer shall from time to time direct; and in case any persons hereinbefore made subject to the payment of any money towards such expenses shall neglect or refuse to pay his share or proportion of any such rate within the time appointed for that purpose, or at any time after such demand, the same shall be levied and recovered in the manner directed by this Act with respect to the previous rate.

And

112. Commissioners may remove Valuers.

And be it Enacted, That if any Valuer chosen or appointed to act in the matter of any Inclosure or other matter under this Act shall, before his duties shall be fully performed, refuse to attend to or become by sickness or otherwise incapable to act in such matter, or shall in the judgment of the Commissioners neglect his duties, or misconduct himself in his office, or become incapable or unfit to act as a Valuer under this Act, it shall be lawful for the Commissioners, by order under their hands and seal, to remove him from the office of Valuer; and if any Valuer shall be so removed, or shall die, it shall be lawful for the Commissioners, by order under their seal, to appoint a Valuer in his stead; and the Valuer so appointed shall have the same powers as if he had been chosen at a meeting of the persons interested in the Land in the manner hereinbefore directed.

113. Repayment to Consolidated Fund.

And be it Enacted, That it shall be lawful for the Commissioners, having regard to the time and labour of the Commissioners or Assistant Commissioner in or about any Inclosure, exchange, division, partition or other proceeding under this Act, by any order under their hands and seal, to order and declare that a sum, in such order to be mentioned, be paid to the Commissioners in respect of the proportion of the general expenses of the Commissioners which ought to be borne in respect of such Inclosure, exchange, division, partition or other proceeding; and the Commissioners shall by such order declare such sum to be charged on the persons interested in the Land to be inclosed, or to which such proceeding shall relate, in such shares as they shall think just, and shall appoint a time for payment thereof; and the same shall be raised in the same manner as the expenses of the Inclosure, or of subjecting the Land to the provisions concerning regulated pasture, are directed to be raised under this Act, and be deemed part of the expenses of the Inclosure or matter aforesaid, or in the case of an exchange, division or partition, in the same manner as the expenses of such exchange, division or partition, and when raised shall be paid to the Commissioners, who shall forthwith pay the same into Her Majesty's Exchequer, to be carried to the account of the Consolidated Fund.

114. Persons attending Meetings to pay their own Expenses.

Provided always, and be it Enacted, That the several persons interested in the Inclosure or other proceeding under this Act, and their respective agents, shall pay their own expenses whenever they shall attend any of the meetings to be held in the matter of any Inclosure.

115. Expenses of Witnesses.

And be it Enacted, That the Commissioners or Assistant Commissioner acting in the matter of any Inclosure, where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court-rolls and writings, maps, plans and surveys, or copies thereof, and all other expenses, (except the salary or allowance to any Assistant Commissioner) incurred in the settlement of any

suit or difference, or in the hearing and determining any objection to any award or apportionment before the said Commissioners, or any Assistant Commissioner, to be paid by such parties interested in the production thereof respectively; or in the event of such suit, difference or objections, and in such proportions as the Commissioners or Assistant Commissioner shall think fit and reasonable.

116. Power to mortgage Allotments.

And be it Enacted, That it shall be lawful for the respective persons interested in allotments in severalty, allotments of stints or rights of pasture respectively, to be made under this Act, being tenants for life or in tail, or for any other estate of freehold or inheritance, and also for the husbands, guardians, trustees, committees or attornies of any of the proprietors being under coverture, infants, lunatics, idiots, or otherwise incapacitated or beyond the seas, and for the trustees or feoffees for charitable, parochial or other uses, or a competent number of them in respect of any Lands held by them in trust for any charitable, parochial or other uses (with the consent of the Commissioners testified in writing under their hands and seal), from time to time to charge their respective allotments with any money not exceeding as to any allotment in severalty *Five Pounds* per acre, towards their respective proportions of the Inclosure expenses, and for securing the repayment of such money with interest to mortgage or demise the said allotments unto or in trust for any person who shall advance any money for any term of years, but so that every such mortgage or demise be made with a condition to cease, or upon trust to be surrendered or assigned when the money thereby to be secured, with all interest thereon, shall have been fully paid; and so that in every such mortgage or demise which shall be made by or on behalf of any person entitled to any such allotment for the term of his natural life, there be contained a covenant to pay and keep down the interest of the money to be secured during his life, in such manner that no person afterwards becoming possessed of such Lands shall be subject or liable to pay any larger arrear of interest than for *Six* Months previous to the time when the title of such person shall accrue or commence; and every such mortgage or demise shall be valid in the law for the purposes thereby intended; and every such mortgagee and his assigns shall have the like remedies in case of non-payment of the monies thereby secured, as in the case of other mortgages of the like nature.

117. Power to sell parts of Allotments.

And be it Enacted, That it shall be lawful for the Commissioners on application made to them in writing by any of the proprietors of allotments to be made by virtue of this Act, or by any of the husbands, guardians, trustees, committees or attornies of or for any of such proprietors being under coverture, minors, idiots, lunatics, or under any other disability or incapacity, or beyond the seas, or by the persons acting as such guardians, trustees, committees or attornies respectively, or by any of the said proprietors being tenants in tail, or for life

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or lives, or on any other contingency, or by any other trustees or feoffees for charitable, parochial or other uses, direct a sale of any part of any such allotment for raising a sum of money sufficient to defray the proportionable part of the expenses which shall in such rates be charged upon such parties, and of the expenses of making and completing such sale: Provided always, That it shall not be lawful for any proprietor of an allotment in severalty to raise by any such sale, or by mortgage and sale, any greater sum of money for the purposes aforesaid than such proprietor might have borrowed or charged upon his allotment for such purposes by virtue of this Act, reckoning *Five Pounds* for each acre thereof: Provided also, That in all cases in which the money so raised by any such sale shall not be equal to the money which might be borrowed or charged on such allotment as aforesaid, it shall be lawful for the proprietor, part of whose allotment shall be sold as aforesaid, to charge his allotment with any sum not exceeding the difference.

118. Sales of parts of Allotments how to be made.

And be it Enacted, That such sales shall be made by the Valuer, with the approbation of the Commissioners in the same manner and subject to the same regulations as are hereinafter prescribed in respect of the sale of part of the Land subject to be inclosed towards defraying the expenses of the Inclosure; and every part of allotment for which the full purchase-money shall be paid, shall be conveyed by the Commissioners at the expense of the purchaser as he shall appoint, and shall be inclosed and held by such purchaser in severalty: Provided always, That nothing herein contained shall enable the Commissioners to convey any allotments set out by them as copyhold or customary as freehold, but such copyhold or customary allotments shall be held by the purchaser thereof by, under and subject to the same rents, suits and services as such allotment would have been held, in case no such sale had been made.

119. Commissioners to receive and apply Purchase-money

And be it Enacted, That the receipt of the Commissioners shall be a sufficient discharge to the purchaser for the said purchase-money; and such purchase-money shall be applied by the Commissioners in or towards defraying the costs and expenses for raising which such sale shall have been made; and the surplus (if any) shall be paid to the parties from whose allotments such sale shall have been so made respectively; and the shares of such of them as shall be tenants in fee-simple shall be paid to them respectively, and the shares of the other proprietors of such surplus money shall be applied and disposed of in manner by this Act directed, with respect to money to be paid into the Bank of England, for the purchase of any Lands, or of any timber, trees or underwood growing thereon.

120. Sale of Land by Valuer for Expenses.

Provided always, and be it Enacted, That in case the Valuer acting in the matter of any Inclosure shall under the instructions of any

meeting of the persons interested in the Lands to be inclosed, or of the Commissioners, think proper to raise all or any part of the expenses of the Inclosure by sale of part of the Land proposed to be inclosed, such Valuer shall set out such parts of the Land to be inclosed as he shall judge sufficient in value to defray the expenses aforesaid, and shall from time to time, as he shall find expedient, sell and dispose of the same by public auction or by private contract, with the approbation of the Commissioners; and the purchase-monies to arise by such sales shall be paid into the hands of the Commissioners, or as they shall direct, and shall be by them applied in discharging the said expenses.

121. Conveyances to be made by Commissioners.

And be it Enacted, That upon every sale to be made by the Valuer under the provisions of this Act, the Commissioners shall sign and deliver to each purchaser a receipt for his purchase-money, which shall be a sufficient discharge for the same; and upon receipt of the whole purchase-money for any of the Lands which shall be sold as aforesaid, the Commissioners shall convey such Lands and the fee-simple and inheritance thereof in possession, by conveyance under their hands and seal to such uses, trusts, and in such manner as such purchaser shall direct; and after such conveyance, the premises conveyed shall be freehold of inheritance, and shall be held to the uses and on the trusts expressed by such conveyance; and any such conveyance may be to the effect set forth in the Schedule to this Act.

122. Application of purchase-monies.

And be it Enacted, That all such purchase-monies as shall be from time to time raised or received by the Commissioners by such respective sales as aforesaid, shall after payment of the charges and expenses attending such respective sales, be paid and applied by the Commissioners towards the expenses of the Inclosure; and the respective purchasers or other persons paying the same, shall not in any manner be liable to see to the application, or be answerable for any misapplication thereof.

123. Power to sell instead of allotting Land.

And be it Enacted, That when under such instructions as hereinbefore required in that behalf, the Valuer shall have been directed to sell the whole of any Land proposed to be inclosed under this Act, except the part thereof directed to be appropriated for public purposes, the Valuer shall and may sell and dispose of the whole of such Land, except as aforesaid; and such sale, and the conveyance thereof to the purchasers, shall be made in all respects in the same manner as hereinbefore directed with respect to the sale of part of the Land proposed to be inclosed for payment of expenses; and the Commissioners shall in like manner receive the purchase-money to arise from such sales, and their receipt shall in like manner be a sufficient discharge to the purchaser for the same; and the Commissioners shall invest such purchase-money, after payment thereout of the expenses

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of the sale and of the Inclosure in the name of any corporation as Trustees, or in the names of Three or more Trustees, to be named or approved by the Commissioners for that purpose, in the purchase of Three Pounds per Centum Consolidated Bank Annuities, or Three Pounds per Centum Reduced Bank Annuities, and shall in and by the final award apportion and declare the shares of and in such annuities to which the several persons interested in the Land from the sale whereof the same shall have arisen shall be entitled, and in respect of what Lands or Estates they shall be entitled in such manner as hereinbefore directed in case of allotments of Lands by the Valuer, or as near thereto as circumstances will admit; and shall also direct and declare that the dividends accruing from time to time in respect of such annuities, or the respective shares thereof, shall be applicable and applied by the Trustees to the payment of quit-rents, land-tax, or any other rent, tax, rate or annual charge, charged or to become charged upon any Lands remaining unsold, in respect of which the persons so declared entitled shall have been respectively declared to be entitled to such shares; and the residue, if any, of the dividends in respect of such shares shall be payable in the same manner as the rents of such Land would from time to time be payable; and in case any person so declared entitled shall not be entitled in respect of any Land remaining unsold, the dividends in respect of the share of such person in such annuities shall belong to the persons who, for the time being, would have been entitled to the Land or right in respect of which such share of annuities shall have been allotted, in case the same had not been sold or extinguished; and such shares shall be considered in equity as real estate, and be transmissible accordingly: Provided always, That where it shall be shown to the satisfaction of the Trustees or Trustee for the time being of such annuities, that any person shall be entitled to or shall have acquired an absolute interest in any share thereof, such share may be transferred to such person, or as he may direct; and in such final award shall be contained such powers for the appointment of new Trustees from time to time, by such persons, and in such manner, and such directions for the indemnity and security of the Trustees, and for defraying out of the investment the expenses of the execution of the trust, as the Commissioners shall think fit.

124. Notice may be given to reversioners.

And be it Enacted, That the Commissioners, before approving any draft award or report, or in any other stage of the proceedings on any Inclosure, or of the proceedings for subjecting any gated or stinted pasture to the provisions of this Act, concerning regulated pastures, if they shall see occasion, may require notice to be given in any such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any Lands, or to any other

other person to whom they may think notice ought to be given; and may by themselves, or by some Assistant Commissioner, hear and determine any objection which may be made by the person so next in remainder, reversion or expectancy.

125. Copies of Award to be made and deposited.

And be it Enacted, That Two copies of every confirmed final award shall be made and sealed with the seal of the said Commissioners, and one such copy shall be deposited with the Clerk of the Peace of the county in which the Lands inclosed shall be situate, who is hereby required to deposit and keep the same among the records of the said county, so that recourse may be had thereto by any person interested in the premises, and the other copy shall be deposited with the Church or Chapel-wardens for the time being of the parish in which the Lands or the greater part thereof shall be situated, or such other fit persons as the Commissioners shall approve to be kept by them and their successors in office, with the public books, writings and papers of the parish; and all persons interested therein may have access to and be furnished with copies of or extracts from any such copy, on giving reasonable notice to the person having custody of the same, and on payment of *Two Shillings and Sixpence* for such inspection, and after the rate of *Three-pence* for every Seventy-two words contained in such copy or extract; and every recital or statement in such confirmed final award, or any sealed copy thereof, shall be deemed satisfactory evidence of the matters therein recited or stated.

126. Penalties and Forfeitures, how recoverable.

And be it Enacted, That all penalties and forfeitures imposed by this Act, or which shall be imposed by the Commissioners or Assistant Commissioner acting in the matter of any Inclosure or other proceeding under or by virtue of the authority of this Act, shall be levied and recovered before any One Justice of the Peace for the county in which the Land subject to be inclosed, or to which such other proceeding shall relate, shall be situate, and not interested in the matter in question, for which purpose it shall be lawful for any such Justice of the Peace upon complaint made to him to summon the party accused, and the witnesses on both sides; and upon the appearance or contempt of the party accused to examine such witnesses upon oath (which oath any such Justice is hereby empowered to administer), and upon such evidence to give judgment accordingly, and to condemn the party accused (proof of the accusation being made by One or more witness or witnesses as aforesaid) in such penalties and forfeitures as the offenders shall have incurred, and to levy such penalties and forfeitures by distress, together with reasonable costs; all which penalties and forfeitures, the application whereof is not particularly directed by this Act, shall and so soon as the same shall be levied, be paid and applied to and for such uses, intents

intents or purposes as the Commissioners in and by any writing under their hands and seal shall order, direct or appoint.

127. Distress, how to be made.

And be it Enacted, That when in this Act any sum of money, whether in the nature of penalty or otherwise, shall be directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the surplus monies arising from such sale, after satisfying such sum of money, and the costs and expenses attending the distress and sale, shall, on demand, be rendered to the party whose goods and chattels shall have been distrained.

128. Distress not unlawful for informality.

And be it Enacted, That no distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser, ab initio, on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

129. Notices, how given.

And be it Enacted, That all notices by this Act directed to be given by advertisement shall be given by an advertisement to be inserted in some newspaper or newspapers printed or usually circulated in the county in which the Land subject to be inclosed, or other Land to which such notice shall relate shall be situate, and all notices directed to be given on the church-door shall be by writing, under the hand of the party giving such notice, to be affixed on the principal outer door of the church of the parish, or if there shall be no church, then in some conspicuous place in the parish in which the Land subject to be inclosed or other land to which such notice shall relate or some part thereof shall be situate, on Sunday before divine service; and all notices necessary to be given by the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure (the mode of giving which is not hereby particularly directed) shall be by either or both of the methods aforesaid as the Commissioners or Assistant Commissioner shall think fit; and all notices so given shall be deemed sufficient notices to all persons concerning all matters and things to which such respective notices shall relate.

130. Advertisements and Awards free of duty.

And be it Enacted, That no advertisement inserted, by direction of the Commissioners or any Assistant Commissioner acting in the matter of any Inclosure, in the London Gazette or in any newspaper for the purpose of carrying into effect any provision of this Act, and no agreement, award or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

131. Persons giving false evidence to be subject to the penalties of Perjury.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence he shall be deemed guilty of perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of perjury; and if any person shall wilfully refuse to attend, in obedience to any lawful summons of the Commissioners or an Assistant Commissioner, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, deed, court-roll or writing, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the Commissioners or Assistant Commissioner, he shall be deemed guilty of a Misdemeanor.

132. Limitation of actions.

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant Commissioner, Justice of the Peace, Valuer, or other person, for any thing done under the authority of this Act, until *Twenty-one* Days' notice thereof shall have been given in writing to the party against whom such action or suit is intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after *Three* calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before *Twenty-one* Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the Jury shall find a verdict for the defendant therein; or the Court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

133. Proceedings not to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant Commissioner under the authority of this Act, except as hereinbefore provided, or any proceeding to be had, touching any offender against this Act, shall be quashed for want of form, or be removed or removable by certiorari, or any other writ or process, into any of Her Majesty's Courts of Record at Westminster or elsewhere.

And

134. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "person," shall mean and include the Queen's Majesty, and any body corporate, aggregate or sole, as well as an individual; and any word importing the singular number only, shall mean and include several persons or parties as well as one person or party, and several things as well as one thing respectively, and the converse; and any word importing the masculine gender only, shall mean and include a female as well as a male; and the word "Land," shall mean and include all messuages, lands and corporeal tenements and hereditaments; and the word "parish" shall include any township or vill, or extra-parochial district or place; and the word "church" shall mean and include any chapel where there is no church; and the word "school-house" shall mean any parochial or charitable school-house; and the words "the Commissioners" shall mean the Inclosure Commissioners for England and Wales; and the words "Assistant Commissioner" shall mean the Assistant Commissioner appointed by the Inclosure Commissioners.

135. Act to extend only to England and Wales.

And be it Enacted, That this Act shall extend only to England and Wales.

136. May be amended in present session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session.

THE SCHEDULE

To which this ACT refers.

FORM of Conveyance by Commissioners [in the matter of the Inclosure.]

We, the Inclosure Commissioners for England and Wales, by virtue of an Act of Parliament passed in the year of the reign of Queen Victoria, intituled [here insert the title of this Act], and in consideration of the sum of paid into our hands by being the purchase-money of the hereditaments hereinafter described, do by these presents convey unto his heirs and assigns, all that [here describe the premises], with the appurtenances; to hold the same unto the said his heirs and assigns [here state the uses, trusts or purposes of the conveyance, as the case may require.] In witness whereof we have hereunto affixed our seal this day of

---

FORM of Summons.

To of in the County of Field Reeve of

To wit. } I, Esquire, one of Her Majesty's Justices of the Peace in and for the said County of do hereby summon you personally to be and appear before such Two of Her Majesty's Justices of the Peace as shall be present at in the said County, on the day of next, at the hour of in the noon of the same day, to answer the complaint of A. B., that [he is refused reasonable compensation for diminution of his right of pasture in the regulated pasture in], or [that the said A. B. is charged with an excessive payment for increaseof his right of pasture in the regulated pasture of], otherwise the complaint will be proceeded with as if you had appeared. Given under my hand and seal this day of in the year

---

FORM

FORM of Order.

To wit. } The Order of and Esquires, Two of Her Majesty's Justices of the Peace in and for the said County, made at in the said County of the day of in the year

Whereas complaint hath been made to us by A. B. for that he [state the complaint as in the summons]. We do declare, that [the yearly sum of is a reasonable compensation for the diminution of the right of pasture of the said A. B.] or [the yearly sum of is a reasonable payment for increase of the right of pasture of the said A. B.] And do order that such yearly sum be paid according to the directions of the statute in that behalf. Given under our hands and seals this day of in the year

Commons Inclosure.

(No. 2.)

A

B I L L

For facilitating the Inclosure and Improvement of Commons.

(*Prepared and brought in by Lord Worsley, Mr. Pusey and Mr. Aglionby.*)

Ordered, by The House of Commons, *to be Printed,* 14 *June* 1843.

[*Price* 7*d.*]

341.

Under 12 *oz.*